50-1-108. Non-disclosure agreement with respect to sexual harassment in workplace as condition of employment prohibited.

(a) An employer, as defined in § 50-1-304, shall not require an employee, as defined in § 50-1-304, or a prospective employee to execute or renew a non-disclosure agreement with respect to sexual harassment in the workplace as a condition of employment.

(b) Any employee injured as a result of a violation of subsection (a) has the same rights and remedies available to employees under § 50-1-304.

50-6-106. Employments not covered.

This chapter shall not apply to:

(1)(A) Any common carrier doing an interstate business while engaged in interstate commerce, which common carrier and the interstate business are already regulated as to employer's liability or workers' compensation by act of congress, it being the purpose of this law to regulate all such business that the congress has not regulated in the exercise of its jurisdiction to regulate interstate commerce; provided, that this chapter shall apply to those employees of the common carriers with respect to whom a rule of liability is not provided by act of congress; provided, further, that no common carrier by motor vehicle operating pursuant to a certificate of public convenience and necessity shall be deemed the employer of a leased-operator or owner-operator of a motor vehicle or vehicles under a contract to such a common carrier;

(B) Notwithstanding subdivision (1)(A), a leased operator or a leased owner/operator of a motor vehicle under contract to a common carrier may elect to be covered under any policy of workers' compensation insurance insuring the common carrier upon written agreement of the common carrier, by filing written notice of the contract, on a form prescribed by the administrator, with the bureau; provided, that the election shall in no way terminate or affect the independent contractor status of the leased operator or leased owner/operator for any other purpose than to permit workers' compensation coverage. The leased operator or leased owner/operator electing coverage as provided in this section shall establish the validity of and satisfy the terms and conditions of all contractual agreements between the parties prior to the payment of any claim for workers' compensation. The election of coverage may be terminated by the leased operator, leased owner/operator, or common carrier by providing written notice of the termination to the bureau and to all other parties consenting to the prior election. The termination shall be effective thirty (30) days from the date of the notice to all other parties consenting to the prior election and to the bureau;

(C) The venue of any dispute arising out of or connected with the validity of the contractual relationship or terms of the written agreement upon which the workers' compensation benefits are extended between the common carrier and a leased operator or leased owner/operator shall be the chancery court of the county where the contract was entered or the county of the principal place of business of the common carrier;

(D) Whenever the leased operator, the leased owner/operator or the carrier files a suit to resolve a contract dispute pursuant to subdivision (C),

the statute of limitations for filing a petition for benefit determination with the bureau shall be tolled for ninety (90) days after final judgment has been entered in the suit including all appeals. In cases where a leased operator or leased owner/operator has filed a petition for benefit determination before the leased operator, leased owner/operator or the carrier has filed a suit pursuant to subdivision (C) to resolve a contract dispute, the petition for benefit determination shall be held in abeyance by the bureau until final judgment, including all appeals, has been entered in the suit filed pursuant to subdivision (C);

(2) Any person whose employment at the time of injury is casual, that is, one who is not employed in the usual course of trade, business, profession or occupation of the employer;

(3) Domestic servants and employers of domestic servants;

(4) Farm or agricultural laborers and employers of those laborers. Employers of farm or agricultural laborers may accept this chapter by purchasing a workers' compensation insurance policy, and may at any time withdraw that acceptance by canceling or not renewing the policy and providing notice to the employees;

(5) Cases where fewer than five (5) persons are regularly employed, except as provided in § 50-6-902. In cases with fewer than five (5) regularly employed persons, the employer may accept this chapter by purchasing a workers' compensation insurance policy, and may at any time withdraw that acceptance by canceling or not renewing the policy and providing notice to the employees;

(6) The state, counties of the state and municipal corporations; provided, that the state, any county or municipal corporation may accept this chapter by filing written notice of the acceptance with the bureau under the administrator, at least thirty (30) days before the happening of any accident or death, and may at any time withdraw the acceptance by giving like notice of the withdrawal. The state, any county or municipal corporation may accept this chapter as to any department or division of the state, county or municipal corporation by filing written notice of acceptance with the bureau under the administrator, at least thirty (30) days before the happening of any accident or death and may, at any time, withdraw acceptance for the division or department by giving like notice of the withdrawal, and the acceptance by the state, county or municipal corporation for any department or division of the state, county or municipal corporation shall have effect only of making the department or division designated subject to the terms of this chapter; or

(7) Any person performing voluntary service as a ski patrolperson who receives no compensation for the services other than meals, lodging or the use of ski tow or ski lift facilities or any combination of meals, lodging and the use of ski tow or ski lift facilities.

50-6-226. Fees of attorneys and physicians, and hospital charges.

(a)(1) The fees of attorneys for services to employees under this chapter, shall be subject to the approval of the workers' compensation judge before which the matter is pending, as appropriate; provided, that no attorney's fees to be charged employees shall be in excess of twenty percent (20%) of the amount of the recovery or award to be paid by the party employing the

attorney. The department shall deem the attorney's fee to be reasonable if the fee does not exceed twenty percent (20%) of the award to the injured worker, or, in cases governed by § 50-6-207(4), twenty percent (20%) of the first four hundred fifty (450) weeks of the award. All attorney's fees for attorneys representing employers shall be subject to review for reasonableness of the fee and shall be subject to approval by a workers' compensation judge when the fee exceeds ten thousand dollars ($10,000).

(2)(A) Medical costs that have been voluntarily paid by the employer or its insurer shall not be included in determining the award for purposes of calculating the attorney's fee.

(B) [Deleted by 2013 amendment, effective July 1, 2014.]

(C) In cases that proceed to trial, an employee's attorney shall file an application for approval of a proposed attorney's fee. Where the award of an attorney's fee exceeds ten thousand dollars ($10,000), the court shall make specific findings as to the factors that justify the fee as provided in Tennessee Supreme Court Rule 8, RPC 1.5.

(D) The final order or settlement in all workers' compensation cases shall set out the attorney portion of the award in both dollar and percentage terms and the required findings.

(3) In accident cases that result in death of an employee, the plaintiff's attorney's fees shall not exceed reasonable payment for actual time and expenses incurred when the employer makes a voluntary settlement offer in writing to dependents or survivors eligible under § 50-6-210 within thirty (30) days of the employee's death if the employer offers to provide the dependents or survivors with all the benefits provided under this chapter. The approving authority shall review and approve the settlements on an expedited basis.

(4) The fees of physicians and charges of hospitals for services to employees under this chapter, shall be subject to the approval of the administrator or the court before which the matter is pending, as appropriate, as provided in this subdivision (a)(4). Unless a medical fee or charge is contested, the department shall deem it to be reasonable. If a fee or charge is contested, the department shall permit a party to seek review only of the contested fee or charge in any court with jurisdiction to hear a matter pursuant to § 50-6-225. A court may review the case solely for the purpose of approving the fees and charges that are reasonable.

(b) The charging or receiving of any fee by an attorney in violation of subsection (a) shall be deemed unlawful practice and render the attorney liable to disbarment; and, further, the attorney shall forfeit double the entire amount retained by the attorney, to be recovered as in case of debt by the injured person or the injured person's creditor.

(c)(1) The fees charged to the claimant by the treating physician or a specialist to whom the employee was referred for giving testimony by oral deposition relative to the claim shall, unless the interests of justice require otherwise, be considered a part of the costs of the case, to be charged against the employer when the employee is the prevailing party.

(2) The workers' compensation judge shall have the discretion to determine the reasonableness of the fee charged by any physician pursuant to this subsection (c).

(3) This subsection (c) applies only to workers' compensation actions arising on or after July 1, 1988.

(d)(1) In addition to attorneys' fees provided for in this section, the court of workers' compensation claims may award reasonable attorneys' fees and reasonable costs, including, but not limited to, reasonable and necessary court reporter expenses and expert witness fees for depositions and trials, incurred when the employer:

(A) Fails to furnish appropriate medical, surgical, and dental treatment or care, medicine, medical and surgical supplies, crutches, artificial members, and other apparatus to an employee provided for in a settlement, expedited hearing order, compensation hearing order, or judgment under this chapter; or

(B) Wrongfully denies a claim or wrongfully fails to timely initiate any of the benefits to which the employee or dependent is entitled under this chapter, including medical benefits under § 50-6-204, temporary or permanent disability benefits under § 50-6-207, or death benefits under § 50-6-210 if the workers' compensation judge makes a finding that the benefits were owed at an expedited hearing or compensation hearing. For purposes of this subdivision (d)(1)(B), "wrongfully" means erroneous, incorrect, or otherwise inconsistent with the law or facts.

(2) Subdivision (d)(1)(B) shall apply to injuries that occur on or after July 1, 2016, but shall not apply to injuries that occur after June 30, 2020.

(e) A health care provider shall not employ a collection agency or make a report to a credit bureau concerning a private claim against an employer for all or part of the costs of medical care provided to an employee that are not paid by the employer's workers' compensation insurer without having first given notice of the dispute to the medical payment committee. The medical director may include the insurer in the administrative process.

50-6-413. [Repealed.]

50-7-108. Report by commissioner of labor and workforce development on the condition of the unemployment compensation fund — Monthly statement.

(a) The commissioner of labor and workforce development shall provide a report to the general assembly concerning the condition of the unemployment compensation fund no later than February 1 of each year based upon the findings as to the balance on December 31 of each year under § 50-7-403(j)(1).

(b) The report provided pursuant to subsection (a) must include:

(1) The unemployment compensation fund balance as credited to the state's account with the United States department of treasury as of December 31 of each year; and

(2) The projected unemployment compensation fund revenues and expenditures and unemployment compensation fund balances for the eighteen-month period following December 31. The report shall be prepared and documented in accordance with sound statistical methodology and shall be accompanied by a written explanation of the methodology.

(c) The commissioner of labor and workforce development shall provide a monthly statement to the general assembly concerning the unemployment compensation fund balance on or before the last business day of each month based upon the findings as to the balance on the last day of the preceding month.

50-7-213. "Wages" defined.

(a) "Wages" means all remuneration paid for personal services from whatever source, including commissions, bonuses, tips that are both paid to an employee while performing services that constitute employment and included in a written statement furnished by the employee to the employer pursuant to § 6053(a) of the Internal Revenue Code of 1954, compiled in 26 U.S.C. § 6053(a), tips allocated by the employer pursuant to § 6053(c)(3) of the Internal Revenue Code of 1954, compiled in 26 U.S.C. § 6053(c)(3), employee salary reduction contributions to cash or deferred plans pursuant to §§ 401(k), 403(b), 457, compiled in 26 U.S.C. §§ 401(k), 403(b) and 457, respectively, or any similar plan contained in the Internal Revenue Code, employee salary reduction contributions to cafeteria plans pursuant to § 125 of the Internal Revenue Code, compiled in 26 U.S.C. § 125, and the cash value of all remuneration in any medium other than cash. The reasonable cash value of any remuneration in any medium other than cash shall be determined in accordance with rules prescribed by the commissioner; provided, that "wages" does not include that part of the remuneration that, after remuneration equal to the taxable wage base, as defined in subsection (e), with respect to employment has been paid to an individual by an employer during any calendar year, is paid to the individual by the employer during the calendar year. The remuneration paid to the individual by the employer during the calendar year in excess of the taxable wage base, as defined in subsection (e), shall be deemed "wages" solely for the purpose of determining the benefit rights under this chapter of the individual.

(b) Notwithstanding any other provision of this chapter, "wages" shall always include remuneration paid for services if the employing unit for which the services are performed is liable for any federal tax on the remuneration against which credit may be taken for premiums paid under this chapter. The remuneration paid to an individual by an employer with respect to employment in another state or states, upon which premiums were required of and paid by the employer under an unemployment compensation law of the other state or states, shall be included as a part of remuneration equal to the taxable wage base, referred to in this section, as defined in subsection (e).

(c) With respect to weeks of unemployment beginning on or after January 1, 1978, wages for insured work shall include wages paid for previously uncovered services. For the purposes of this subsection (c), "previously uncovered services" means services:

(1) That were not employment as defined in § 50-7-207(b)(1), and were not services covered pursuant to § 50-7-405(d) at any time during the one-year period ending December 31, 1975; and

(2) That are:

(A) Agricultural labor as defined in § 50-7-207(f)(1) or domestic service as defined in § 50-7-207(b)(8); or

(B) Services performed by an employee of this state or a political subdivision of the state, as provided in § 50-7-207(b)(3), or by an employee of a nonprofit educational institution that is not an institution of higher education, as provided in § 50-7-207(c)(5)(D), except to the extent that assistance under Title II of the Emergency Jobs and Unemployment Assistance Act of 1974, contained in 26 U.S.C. § 3304 note, was paid on the basis of the services.

(d) "Wages" does not include:

(1) The amount of any payment with respect to services performed on behalf of an individual in its employ under a plan or system established by an employing unit that makes provision for individuals in its employ generally or for a class or classes of the individuals, including any amount paid by an employing unit for insurance or annuities, or into a fund to provide for any such payment on account of:

(A) Retirement;

(B) Sickness or accident disability made to an employee or any of the employee's dependents that is awarded under a workers' compensation law. Any third party that makes the payment on account of sickness or accident disability to an employee or any of the employee's dependents that is awarded under a workers' compensation law shall be treated, for purposes of this chapter, as the employer with respect to the wages, except as otherwise provided in regulations prescribed by the commissioner;

(C) Medical and hospitalization expenses in connection with sickness or accident disability; or

(D) Death, provided the individual in its employ does not have:

(i) The option to receive, instead of provision for the death benefit, any part of the payment, if the death benefit is insured, any part of the premium, or contributions of premium, paid by the individual's employing unit; and

(ii) The right under the provisions of the plan or system or policy of insurance providing for the death benefit to assign the benefit, or to receive a cash consideration in lieu of the benefit either upon the individual's withdrawal from the plan or system providing for the benefit or upon termination of the plan or system or policy of insurance or of the individual's services with the employing unit;

(2) The payment of an employer, without deduction from the remuneration of the individual in its employ, of the tax imposed upon an individual in its employ under 26 U.S.C. §§ 3101 and 3102; or

(3) Any payment on account of sickness or accident disability, or medical or hospitalization expenses in connection with sickness or accident disability, made by an employer to, or on behalf of, an employee after the expiration of six (6) calendar months following the last calendar month in which the employee worked for the employer.

(e) For purposes of this chapter, "taxable wage base" means:

(1) The first seven thousand dollars ($7,000) paid to each individual employee during any period with respect to the calendar years beginning January 1, 1983, and ending December 31, 2008, and at any time after December 31, 2008, that the unemployment trust fund balance is greater than one billion dollars ($1,000,000,000), as determined in accordance with § 50-7-403(j);

(2) The first eight thousand dollars ($8,000) paid to each individual employee during any period after December 31, 2008, when the unemployment trust fund balance is greater than nine hundred million dollars ($900,000,000) but lower than or equal to one billion dollars ($1,000,000,000), as determined in accordance with § 50-7-403(j); and

(3) The first nine thousand dollars ($9,000) paid to each individual employee during the period after December 31, 2008, and at any time after December 31, 2008, that the unemployment trust fund balance is lower than or equal to nine hundred million dollars ($900,000,000), as determined in

accordance with § 50-7-403(j).

(f) [Deleted by 2018 amendment.]

50-7-404. Collection of premiums — Interest — Procedure when employer in default — Priorities — Adjustments — Refunds.

(a) **Interest on Past-Due Premiums.** Premiums unpaid on the date on which they are due and payable, as prescribed by the commissioner, shall bear interest at the rate of one percent (1.0%) prior to July 1, 1983, and one and one half percent (1.5%) thereafter, for each month or any portion of a month from and after that date until payment plus accrued interest is received by the commissioner. Interest collected pursuant to this subsection (a) shall be paid into the unemployment compensation special administrative fund.

(b) **Collection.**

(1) If, after due notice, any employer defaults in any payment of premiums, interest on premiums, penalties, or costs prescribed in this chapter, the amount due, including additionally incurred premiums, interest, penalties and costs, shall be a lien in favor of the department of labor and workforce development upon the assets of the employer. The lien shall commence upon the date the premiums, interest, or penalties become due and shall continue until the original and any subsequent premiums, interest, penalties, costs or assessments are paid in full. The lien shall attach to all interest in property either real or personal, tangible or intangible, in this state then owned, or subsequently acquired by the employer, and shall be enforced by original attachment issued by any court having jurisdiction of the amount claimed to be due, as provided by § 66-21-101. The definition of "assessment" is provided for in subdivisions (c)(1)-(3).

(2)(A) The commissioner shall cause a notice of the lien to be recorded in the office of the county register of deeds in the county or counties in which the employer's business or residence is located, or in any county in which the employer has an interest in property. The notice shall be recorded in the same manner as liens recorded in that office. Recordation shall constitute notice of both the original and all subsequent liabilities of the same taxpayer.

(B) There shall be no fees collected by the county register at the time the notice is recorded, but the county register shall extend credit to the department for the fees that are chargeable and submit the county register's bill at the end of each month to the department in order to obtain payment.

(C) The lien created in this chapter shall have the same priority, in relation to other liens and security interests created under Tennessee law, as the lien described in § 67-1-1403.

(D) Any lien of record in favor of the Tennessee department of employment security shall inure to the Tennessee department of labor and workforce development as a successor in interest to the Tennessee department of employment security by virtue of the Tennessee Workforce Development Act of 1999, compiled in title 4, chapter 3, part 14.

(3)(A) In addition to the remedy provided for in subdivision (b)(2), it is further expressly provided as follows: if after due notice, any employer defaults in payment of premiums or interest on the premiums, the amount due may be collected by civil action in the name of the commissioner, and

the employer adjudged in default shall pay the costs of the action; furthermore, and in addition to all other remedies delineated in subdivision (b)(2), the commissioner is expressly authorized to issue, under the commissioner's hand and seal, a distress warrant against the delinquent employer for the amount of the premiums and any interest on the premiums that may be due and unpaid as of the date of the issuance.

(B) The distress warrant shall be returnable within thirty (30) days from its date and shall have the same effect as other distress warrants authorized by law for the collection of delinquent taxes or revenue owed to the state or any agency of the state.

(C) Civil actions brought under this section to collect premiums or interest on the premiums from an employer shall be heard by the court at the earliest possible date and shall be entitled to preference upon the calendar of the court over all other civil actions except cases involving the Workers' Compensation Law, compiled in chapter 6 of this title, or state revenue.

(D) The collection of all premiums shall be barred and any lien for the premiums shall be cancelled and extinguished, unless the premiums are collected or suit for the collection has been instituted within six (6) years from the due date of the premiums as prescribed by the commissioner; however, the period of limitations on collection of premiums or interest on the premiums shall be suspended for the period the assets of the employer are in control or custody of the court in any proceeding before any court of the United States or of any state, as defined in § 50-7-210, and six (6) months thereafter.

(4) Distress warrants issued under the authority of this chapter for the collection of premiums, payments in lieu of premiums, interest or penalties arising out of this chapter may, in the discretion of the commissioner, be addressed to and delivered to an employee or representative of the department for the purpose of execution, and the employee or representative shall have the same power and authority as a sheriff for the purpose of levying and executing the distress warrant. The employee or representative shall be entitled to the same fees and costs as would accrue to a sheriff for those services. The fees and costs shall be paid to the department for return to the United States department of labor as miscellaneous receipts.

(5)(A) If the commissioner or the commissioner's delegate determines that the collection of premiums under this title will be jeopardized by delay, the commissioner shall, whether or not premiums accrued have become due, immediately assess the premiums together with all interest, penalties, and costs.

(B) The amount of the assessment shall then become immediately due and payable, and immediate notice and demand shall be made by the commissioner or the commissioner's delegate for the payment of the assessment.

(6) The employees or representatives shall not be subject to civil suit as a result of performing or attempting to perform the duties specified in this subsection (b).

(7)(A) In addition to any remedies authorized by this chapter, the department may offset any covered unemployment compensation debt due to the department against any federal income tax refund due to the department's taxpayer debtor in accordance with § 6402 of the Internal Revenue Code, codified in 26 U.S.C. § 6402, and the federal Treasury Offset Program,

compiled in 31 CFR part 285, or any successor program.

(B) The department may exercise this right of setoff if the obligation of the debtor was the result of:

(i) Past due contributions due to the state's unemployment fund that remain uncollected and the state has determined the taxpayer debtor to be liable for those contributions; or

(ii) Any penalties and interest assessed by the department on a debt contemplated by this subdivision (b)(7).

(C) Any fee or administrative expense imposed by the United States department of the treasury or the United States department of labor in connection with such offset shall be the responsibility of the debtor.

(D) Following such offset, the amount of credit to which a debtor is entitled shall not exceed the amount of the credit received by the department.

(c) **Failure to Make Reports and Pay Premiums; Duty and Power of the Commissioner.**

(1) If any employing unit fails to make and file any report as and when required by the terms and provisions of this chapter, or by any rule or regulation of the commissioner, for the purpose of determining the amount of premiums due by the employing unit under this chapter, or if any report that has been filed is deemed by the commissioner to be incorrect or insufficient, and the employing unit after having been mailed written notice, to its last known address, by the commissioner to file the report, or a corrected or sufficient report, as the case may be, shall fail to file the report within thirty (30) days after the date of the filing of the notice, the commissioner may:

(A) Determine the amount of premiums due from the employing unit on the basis of the information that may be readily available to the commissioner, which determination shall be prima facie correct;

(B) Assess the employing unit with the greater of the amount of premiums so determined or fifty dollars ($50.00); and

(C) Immediately give written notice, by certified mail, to the employing unit of the determination, assessment and damages, if any, added and assessed, demanding payment of the assessment and damages, together with interest and penalty, as herein provided on the amount of premiums from the date when the premiums were due and payable.

(2) The determination and assessment shall be final and conclusive on the employing unit thirty (30) calendar days after the date of mailing of written notice of the determination and assessment to the last known address of the employing unit, or not later than thirty (30) calendar days after the date the written notice is given to the employing unit, whichever first occurs, unless the employing unit has timely filed with the department a written application for review and redetermination in accordance with subsection (h). Any premium or deficiencies in premiums found to be due by the department in the redetermination shall be assessed and paid, together with interest, penalty and assessed damages, if any, within fifteen (15) calendar days after the date of mailing of written notice of the redetermination and assessment and demand for payment of the assessment by the department to the last known address of the employing unit, or not later than fifteen (15) calendar days after the date the written notice is given to the employing unit, whichever first occurs. Any employer who neglects or refuses to file a quarterly wage report and a quarterly premium report, or who intentionally

files an incomplete quarterly wage report or an incomplete quarterly premium report within the time required by this chapter, or by any rule or regulation of the commissioner, shall pay a penalty of ten dollars ($10.00) for each month, or portion of a month, the report is due; however, the total penalty for each report shall not exceed fifty dollars ($50.00).

(3)(A) Except as otherwise provided in subdivision (c)(3)(B), beginning January 1, 2019, and each quarter thereafter, each employer, and every person or organization who reports wages on employees on behalf of one (1) or more subject employers, shall file the wage and premium reports electronically, in a format prescribed by the commissioner.

(B)(i) If the electronic filing requirement imposed by subdivision (c)(3)(A) creates a hardship upon the employer, person, or organization subject to the requirement, the employer, person, or organization may submit an affidavit to the commissioner containing a statement made under the penalty of perjury that the employer, person, or organization would suffer an undue hardship by filing the wage and premium reports electronically, and the commissioner may allow the employer, person, or organization to file the wage and premium reports in a paper format. Any employer, person, or organization, who does not have prior approval to file in a paper format, and who is required to file the reports electronically but neglects or refuses to do so, will be considered to have filed an incomplete wage and premium report and shall be assessed a penalty pursuant to subdivision (c)(2).

(ii) The affidavit required by subdivision (c)(3)(B)(i) must be submitted within the first quarter, beginning January 1, 2019, and annually thereafter.

(d) **Forfeiture of Right to Do Business Upon Noncompliance.**

(1) An employer liable for premiums under this chapter who fails to make and file the employer's returns and reports as required, or who fails to pay any premiums when due under the this chapter, shall forfeit the employer's right to do business in this state until the employer complies with all the provisions of this chapter and until the employer enters into a bond with sureties, to be approved by the commissioner, in an amount not to exceed all contributions estimated to become due by the employer under this chapter for any three-month period, conditioned to comply with this chapter and to pay all premiums legally due or to become due by the employer, and the commissioner may proceed by injunction to prevent the continuance of the business upon the failure by the employer, by applying to a court of competent jurisdiction for an injunction and any temporary injunction enjoining the continuance of the business may be granted after reasonable notice not less than ten (10) days by any judge or chancellor now authorized by law to grant injunctions.

(2) This subsection (d) is to be deemed as cumulative and in addition to any other provisions of this chapter relating to the collection of premiums by the commissioner.

(e) **Priorities Under Legal Dissolution or Distributions.** In the event of any distribution of an employer's assets pursuant to an order of any court under the laws of this state, including any receivership, assignment for benefit of creditors, adjudicated insolvency, composition, or similar proceeding, premiums then or thereafter due shall have the same priority as now provided by the state for the payment of debts and taxes due it. In the event of an employer's

adjudication in bankruptcy, judicially confirmed extension proposal, or composition, under the federal Bankruptcy Act of 1898 [repealed], premiums then or thereafter due shall be entitled to the priority as is provided in § 64(a) of that act (11 U.S.C. § 104(a) [repealed]).

(f) **Adjustment or Refund.**

(1) If, not later than three (3) years after the date of payment of any premium or interest on the premium, an employer who has paid the premium or interest on the premium makes application for an adjustment of the premium in connection with subsequent premium payments, or for a refund of the premiums because the adjustment cannot be made, and the commissioner determines that the premiums or interest, or any portion of the premiums or interest, was erroneously collected, the commissioner shall allow the employer to make an adjustment, without interest, in connection with subsequent premium payments by the employer, or if the adjustment cannot be made, the commissioner shall refund the amount, without interest, from the fund; provided, that when an employer has erroneously paid to this state premiums or interest that should have been paid as contributions or interest under the unemployment compensation law of some other state, or of the United States, the commissioner may refund to the employer the amount of the premium or interest erroneously paid without interest, and without regard to any period of limitation, upon satisfactory proof to the commissioner that the contributions have been paid to the other state, or to the United States; and provided, further, that in no case shall an adjustment or refund be made with respect to premiums paid on wages that have been included in the determination of an eligible claimant for benefits, unless and until it is shown to the satisfaction of the commissioner that the determination was due entirely to the fault or mistake of the department. For like cause, and within the same period, adjustment or refund may be made on the commissioner's own initiative. Any refund of the interest erroneously paid, which was paid into the unemployment compensation special administrative fund provided for in this chapter, shall be refunded from the fund. When an adjustment or refund to any employer has been approved, the experience rating record provided for in § 50-7-403 shall be corrected, but no premium rate assigned to an employer shall be changed as a result of the adjustment or refund unless the application for the refund has been filed on or before the final day of February immediately preceding the premium rate year. Nothing in this subsection (f) shall be construed to deny any refund required under § 50-7-207(c)(1).

(2) Employers lawfully electing to make payments in lieu of premiums shall be entitled to refunds, if:

(A) The commissioner finds that the payment in lieu of premiums was made in error;

(B) If the claim for refund is based on benefits originally paid that were subsequently determined to be improperly paid and the claimant has repaid the commissioner for the benefits; and

(C) The claim for refund has been filed with the commissioner within three (3) years from the date the payment in lieu of premiums was originally made.

(g) **Collection of Premiums on Public Contracts.**

(1) Any person, firm or corporation entering into a formal contract with the state or any county, municipality or political subdivision, or any public

board, department, commission or institution that is a part thereof for construction or maintenance of public buildings, works or projects in which the total contract sum shall equal or exceed one hundred thousand dollars ($100,000) and the time of performance is more than six (6) months, shall notify the department in writing of the name of all subcontractors who will furnish or who are furnishing labor in performance of the contract and whose subcontracts are in the amount of ten thousand dollars ($10,000) or more, the notice to be given not less than thirty (30) days prior to paying the subcontractor the final five percent (5%) of the subcontract; and the contractor shall retain the final five percent (5%) for thirty (30) days following the notice or until there is compliance with subdivision (g)(2).

(2) The department may, within thirty (30) days following the filing of notice pursuant to subdivision (g)(1), notify the contractor of premiums and interest required or believed to be required under this chapter and owed by the subcontractor by reason of performance of the subcontract or any part of the contract, and the contractor shall then, within the limits provided for in subdivision (g)(1), which is five percent (5%) of the subcontract amount, retain the amount claimed to be due by the subcontractor or require that the subcontractor furnish bond for the amount to the department or make such other arrangement for satisfaction of the obligation of the subcontractor as are satisfactory to and protect the rights of the department.

(3) If the contractor fails to give notice as provided in this subsection (g), the contractor will be primarily liable for the obligations of the subcontractor that are described in subdivisions (g)(1) and (2), limited to five percent (5%) of the subcontract amount, and the obligation shall continue for a period of ninety (90) days from the date upon which a request is subsequently filed with the department by the contractor for final determination of the obligation of any subcontractor, or for one (1) year from the date upon which the final payment is received by the contractor from the state, county, municipality, political subdivision or any public board, department, commission or institution that is a part thereof, if notice of the claim is presented by the department within that time to the contractor.

(4) The contractor will not be liable for obligations of the subcontractor unless notice is given by the department as provided in either subdivision (g)(2) or (g)(3).

(h) **Redeterminations.** A person may file an application for review and redetermination by the department of certain determinations made by the department under this part only in accordance with the following:

(1) A nonprofit organization or person other than a nonprofit organization may file an application for review and redetermination by the department of:

(A) Any determination made by the department concerning the status of a nonprofit organization as an employer and of which the organization is sent written notice pursuant to § 50-7-403(h)(1)(E);

(B) Any determination made by the department concerning the status of any person other than a nonprofit organization as an employer and of which the person is sent written notice;

(C) Any bill rendered by the department under subdivision (g)(2) with respect to payments in lieu of premiums due from a nonprofit organization and of which the organization is sent written notice pursuant to subdivision (g)(2);

(D) Any determination and assessment of premiums and damages, if any, made by the department under subsection (c) with respect to an employing unit and of which the employing unit is sent written notice pursuant to subsection (c);

(E) Any determination made by the department concerning a premium rate assigned to an employer pursuant to this chapter and of which the employer is sent written notice; or

(F) Any determination of seasonal employer status;

(2) An application for review and redetermination shall be in writing and shall state the reason or reasons that the employer submits justifies a change in the initial determination, bill or assessment;

(3) An application for review and redetermination must be filed with the department within thirty (30) calendar days after the date of mailing of written notice of the initial determination, bill or assessment, to the last known address of the person or not less than thirty (30) calendar days after the date the written notice is given to the person, whichever first occurs. In the absence of timely filing of the application, any determination, bill or assessment described in subdivision (h)(1) shall be final and conclusive on that person; and

(4)(A) In the case of an application for review and redetermination timely and properly filed with the department in accordance with this subsection (h), the department shall review and reconsider the determination, the amount due specified in the bill or the assessment, shall issue a redetermination, and shall notify the person in writing within ninety (90) calendar days after the application for review and redetermination was so filed with the department. The redetermination shall become a final order of the commissioner and not subject to further review, unless an appeal is filed to the appeals tribunal pursuant to § 50-7-304 within twenty (20) calendar days after the date the written notification of the redetermination is given or mailed to the last known address of the interested party;

(B) Any premium, payment in lieu of premiums, deficiencies in premiums, or deficiencies in payments in lieu of premiums found to be due by the department in the redetermination shall be assessed and paid together with interest, penalty and assessed damages, if any, within fifteen (15) calendar days after the date of mailing of written notice of the redetermination and assessment and demand for payment of the assessment by the department to the last known address of the person, or not later than fifteen (15) calendar days after the date the written notice is given to the person, whichever occurs first.

(i) **Discharge of Liens.**

(1) If the commissioner is not joined as a party, a judgment in any civil action or suit, or a judicial sale pursuant to the judgment with respect to property on which the department has or claims a lien under this title:

(A) Shall be made subject to and without disturbing the lien of the department, if notice of the lien has been filed in the place provided by law for the filing at the time the action or suit is commenced; or

(B) If a judicial sale of property pursuant to a judgment in any civil action or suit to which the department is not a party discharges a lien of the department arising under this title, the department may claim, with the same priority as its lien had against the property sold, the proceeds, exclusive of costs, of the sale at any time before the distribution of the

proceeds is ordered.

(2)(A) Notwithstanding subdivision (i)(1), a sale of property on which the department has or claims a lien, or a title derived from enforcement of a lien, under this title, made pursuant to an instrument creating a lien on the property, pursuant to a confession of judgment on the obligation secured by such an instrument, or pursuant to a nonjudicial sale under a statutory lien on the property shall, except as otherwise provided, be made subject to and without disturbing the lien or title, if notice of the lien was filed or the title recorded in the place provided by law for the filing or recording more than thirty (30) days before the sale and the department is not given notice of the sale in the manner prescribed in subdivision (i)(2)(B).

(B) **Special Rules.**

(i) **Notice of Sale.** Notice of sale to which subdivision (i)(2)(A) applies shall be given, in accordance with regulations prescribed by the commissioner, in writing, by registered or certified mail or by personal service, not less than twenty-five (25) days prior to the sale, to the commissioner or the commissioner's delegate.

(ii) **Consent to Sale.** Notwithstanding the notice requirement of subdivision (i)(1), a sale described in subdivision (i)(2)(A) of the property shall discharge or divert the property of the lien or title of the department if the department consents to the sale of the property free of the lien or title.

(iii) **Sale of Perishable Goods.** Notwithstanding the notice requirement of this section, a sale described in subdivision (i)(2)(A) of the property liable to perish or become greatly reduced in price or value by keeping, or that cannot be kept without great expense, shall discharge or divert the property of the lien or title of the department if notice of the sale is given, in accordance with regulations prescribed by the commissioner, in writing, by registered or certified mail or by personal service, to the commissioner or the commissioner's delegate before the sale. The proceeds, exclusive of costs, of the sale shall be held as a fund subject to the liens and claims of the department, in the same manner and with the same priority as the liens and claims had with respect to the property sold, for not less than thirty (30) days after the date of the sale.

(3) **Right to Redeem.**

(A) In the case of real property to which subdivision (i)(2)(A) applies, to satisfy a lien prior to that of the department, the commissioner or the commissioner's delegate may redeem the property within the period allowable for redemption under law.

(B) **Amount to be Paid.** In any case in which the department redeems real property pursuant to § 50-7-304(c)(1), the amount to be paid for the property shall be the amount paid by the purchaser, plus six percent (6%) interest per annum.

(C) **Certificate of Redemption.**

(i) **In General.** In any case in which real property is redeemed by the department pursuant to subdivision (i)(3), the commissioner or the commissioner's delegate shall execute a certificate of redemption therefor.

(ii) **Filing.** The commissioner or the commissioner's delegate shall, without delay, cause the certificate to be duly recorded in the proper

registry of deeds.

(iii) **Effect.** A certificate of redemption executed by the commissioner or the commissioner's delegate shall constitute prima facie evidence of the regularity of the redemption and shall, when recorded, transfer to the department all the rights, title and interest in and to the property acquired by the person from whom the department redeems the property by virtue of the sale of the property.

(j) **Revocation of Charter or Authority to Conduct Business for Nonpayment.**

(1) The commissioner is empowered to certify to the secretary of state the name of any corporation or limited liability company permitted to conduct business in the state that meets the definition of employer or employing unit for the purposes of this chapter, and that fails or refuses to file any quarterly report or to pay any fees, premiums, penalties or interest required in this chapter; however, no certification shall be issued until the report, fees, premiums, penalties or interest has remained delinquent for a period of ninety (90) days.

(2) At the time of the certification to the secretary of state, the commissioner shall give notice to the corporation or limited liability company of the action taken. Then, in the case of a corporation, the charter of the corporation or its domestication in the state shall stand as automatically revoked and the secretary of state shall note the revocation in its records. In the case of a limited liability company, the secretary of state shall administratively dissolve the limited liability company and shall note the dissolution in its records.

(3)(A) In the case of a corporation, at any time after the date of the revocation, the charter may be reinstated upon the filing of all reports and the payment of all fees, premiums, penalties and interest due the state; and in the case of a limited liability company, the certificate of dissolution may be cancelled upon the filing of all reports and the payment of all fees, premiums, penalties and interest due the state; provided, that the title has not been taken by another corporation or limited liability company, and that proof is furnished sufficient to the commissioner that no third party will be injured by the reinstatement or cancellation, unless proof has been furnished sufficient to the secretary of state upon requesting the reinstatement or cancellation.

(B) A corporation whose charter has been revoked or a limited liability company that has been administratively dissolved pursuant to subdivisions (j)(1) and (2) may apply to the secretary of state for reinstatement or cancellation by presenting a certificate from the commissioner certifying that the corporation or limited liability company has satisfied the requirements set forth in subdivision (j)(3)(A).

(k) A client of a staff leasing company shall be jointly and severally liable with the staff leasing company for state unemployment premiums, unless the client is relieved of the joint and several liability as provided under § 62-43-113(b)(2)(B) [repealed] of the Tennessee Employee Leasing Act.

50-7-506. [Repealed.]

50-8-101. Chapter definitions.

As used in this chapter:

(1) "Marketplace contractor" means any individual, corporation, partnership, sole proprietorship, or other business entity that:

(A) Enters into an agreement with a marketplace platform to use the platform's online-enabled application, software, website, or system to receive connections to third-party individuals or entities seeking services in this state; and

(B) In return for compensation from the third-party or marketplace platform, offers or provides services to the third-party individuals or entities upon being given an assignment or connection through the marketplace platform's online-enabled application, software, website, or system; and

(2) "Marketplace platform" means a corporation, partnership, sole proprietorship, or other business entity operating in this state that:

(A) Offers an online-enabled application, software, website, or system that enables the provision of services by marketplace contractors to third-party individuals or entities seeking services; and

(B) Neither directly nor through any related party derives any benefit from work performed by marketplace contractors other than a subscription or use fee for placing marketplace contractors in assignments or otherwise providing connections.

50-8-102. Marketplace contractors and marketplace platforms — Employment relationships.

(a) A marketplace contractor is an independent contractor and not an employee of the marketplace platform for all purposes under state and local laws, rules, ordinances, and resolutions if the following conditions are set forth in a written agreement between the marketplace platform and the marketplace contractor:

(1) The marketplace platform and marketplace contractor agree in writing that the contractor is an independent contractor with respect to the marketplace platform;

(2) The marketplace platform does not unilaterally prescribe specific hours during which the marketplace contractor must be available to accept service requests from third-party individuals or entities. If a marketplace contractor posts the contractor's voluntary availability to provide services, the posting does not constitute a prescription of hours for purposes of this subdivision (a)(2);

(3) The marketplace platform does not prohibit the marketplace contractor from using any online-enabled application, software, website, or system offered by other marketplace platforms;

(4) The marketplace contractor may, at its discretion, enlist the help of an assistant to complete the services, and the marketplace platform may require the assistant to complete the marketplace platform's standard registration and vetting process. If the marketplace contractor enlists the help of an assistant, the marketplace contractor, not the marketplace platform, is responsible for paying the assistant;

(5) The marketplace platform does not restrict the marketplace contractor from engaging in any other occupation or business;

(6) The marketplace platform does not require marketplace contractors to use specific supplies or equipment;

(7) The marketplace platform does not control the means and methods for the services performed by a marketplace contractor by requiring the marketplace contractor to follow specified instructions governing how to perform the services. However, the marketplace platform may require that the quality of the services provided by the marketplace contractor meets specific standards and requirements;

(8) The agreement or contract between the marketplace contractor and the marketplace platform may be terminated by either the marketplace contractor or the marketplace platform with or without cause;

(9) The marketplace platform provides no medical or other insurance benefits to the marketplace contractor, and the marketplace contractor is responsible for paying taxes on all income derived as a result of services performed to third parties from the assignments or connections received from the marketplace platform; and

(10) All, or substantially all, payment to the marketplace contractor is based on performance of services to third parties who have engaged the services of the marketplace contractor through the marketplace platform.

(b) This section does not apply to any service that is the type of service identified in 26 U.S.C. § 3306(c)(7) or (c)(8).

50-8-103. Applicability of chapter.

Nothing in this chapter applies to:

(1) A transportation network company, as defined in § 65-15-301; or

(2) A construction services provider, as defined in § 50-6-901.

53-1-301. Part definitions. [Effective until June 30, 2021.]

As used in this part:

(1) "Administration" means the United States food and drug administration;

(2) "Department" means the department of agriculture; and

(3) "Standards" means the standards for the growing, harvesting, packing, and holding of produce for human consumption (21 CFR Part 112).

53-1-302. State cooperation with United States food and drug administration. [Effective until June 30, 2021.]

(a) The department is authorized to cooperate with the administration under the standards.

(b) In furtherance of its responsibilities under this part the department may:

(1) Conduct inspections and take other actions reasonably necessary to assist the administration in enforcing the standards;

(2) Enter into cooperative agreements with the administration to implement provisions of the standards; and

(3) Promulgate rules to effectuate the purposes of this part, in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

53-1-303. Use of state funds — Funds limited to those provided to state by federal government. [Effective until June 30, 2021.]

(a) No state funds shall be expended for the purposes of enforcing the

standards against agricultural producers that only make sales of produce to:

(1) The consumer of the produce; or

(2) A restaurant or retail food establishment that is located in this state or not more than two hundred seventy-five (275) miles away from the farm where the produce was produced.

(b) The department shall not expend more funds to cooperate with the administration under the standards than the amount of funds that are provided to this state by the federal government for such purposes.

53-1-304. Repealer. [Effective until June 30, 2021.]

This part shall cease to be effective on June 30, 2021.

53-3-120. "Local Tennessee Milk".

Any milk sold in this state may be labeled as "Local Tennessee Milk", or a statement that indicates the milk is Tennessee milk, if the milk contains only milk produced in this state.

53-10-113. Off-label drug use.

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

(1) "Misbranding" means either the federal definition under 21 U.S.C. § 352 or drugs or devices that are misbranded under § 53-10-106; and

(2) "Off-label" means the use of a United States food and drug administration (FDA) approved drug, biological product, or device other than the use or uses approved by the FDA.

(b)(1) A pharmaceutical manufacturer or its representatives may engage in truthful promotion of off-label uses.

(2) This section does not require a health insurance entity, as defined in § 56-7-109, other third-party payer, or other health plan sponsor to provide coverage for the cost of any off-label treatment. A health insurance entity, other third-party payer, or other health plan sponsor may provide coverage for an off-label treatment.

(c)(1) Notwithstanding any other law, no official, employee, or agent of this state shall enforce or apply § 53-10-106(a)(2) against or otherwise prosecute a pharmaceutical manufacturer or its representatives for engaging in truthful promotion of off-label uses.

(2) Notwithstanding any other law, no state regulatory board may revoke, fail to renew or take any other action against a pharmaceutical manufacturer's or representative's, healthcare institution's, or physician's license solely for engaging in truthful promotion of off-label uses.

53-10-303. Controlled substance database committee. [Effective until July 1, 2023. See version effective on July 1, 2023.]

(a) There is created the controlled substance database committee. The committee members shall be:

(1) One (1) of the governor-appointed licensed members of each of the following healthcare professional licensure boards or committees to be chosen by the licensing board or committee:

(A) The board of medical examiners;

(B) The board of osteopathic examination;

(C) The board of dentistry;

(D) The board of podiatric medical examiners;

(E) The board of optometry;

(F) The board of veterinary medical examiners;

(G) The board of nursing;

(H) The board of medical examiners' committee on physician assistants; and

(I) The board of pharmacy; and

(2) One (1) of the members of the board of pharmacy and one (1) of the members of the board of medical examiners who were appointed to those boards to represent the general public. The boards shall choose those representatives.

(b) The committee shall have a chair and vice chair, who shall be elected annually from its members.

(c) The committee shall meet at least annually and as often as deemed necessary either at the call of the chair or upon request of at least three (3) members of the committee. A quorum for purposes of official actions by the committee shall be seven (7) members.

(d) The members of the committee chosen to serve by the respective licensure boards and committees, while serving on this committee, shall be deemed to be performing official duties as members of their respective board or committee and shall be entitled to the same per diem and travel reimbursements as they would receive for performing their duties for their respective board or committee. The respective board or committee of each member shall pay such per diem and travel reimbursement.

(e) At all times, except when considering, reviewing, discussing, advising, or taking action in reference to specifically named individuals or healthcare practitioners identified from information contained in, or reported to the database, the committee shall be subject to title 8, chapter 44, part 1, regarding public meetings.

(f) Pursuant to § 53-10-311 and the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, the commissioner shall have the authority to promulgate rules as necessary for implementation of this part regarding:

(1) Establishing, maintaining, and operating the database;

(2) Access to the database and how access is obtained;

(3) Control and dissemination of data and information in the database;

(4) The control, sharing, and dissemination of data and information in the database with other states or other entities acting on behalf of a state; and

(5) Establishing the morphine milligram equivalent calculation for an opioid drug contained in Schedules II-V for purposes of § 63-1-164; provided, that if no such rule is promulgated for an opioid drug, the morphine milligram equivalent calculation established by the federal centers for disease control and prevention for that drug shall be used.

(g) The committee shall advise the commissioner with respect to any contemplated rulemaking under this part. The committee may make formal recommendations to the commissioner.

(h)(1) The committee and the commissioner shall have the right to examine database information to identify unusual patterns of prescribing, distributing, or dispensing controlled substances that appear to be higher than normal, taking into account the particular specialty, circumstances, patient type, or location of the healthcare practitioner.

(2) If the committee or the commissioner determines that a healthcare practitioner has an unusually high pattern of prescribing, distributing, or dispensing controlled substances that is not explained by other factors, the committee or the commissioner shall refer the healthcare practitioner to the appropriate licensing board.

(3) If an investigator in service of a health-related board as licensed under title 63 or title 68 has reason to believe during any part of an investigation that a healthcare practitioner is in violation of a criminal law, the investigator is authorized to report the conduct to the appropriate law enforcement personnel.

53-10-304. Controlled substance database — Director — Administration — Requirements.

(a) There is created within the department a controlled substance database. The director of the controlled substance database shall be responsible for determining staffing in consultation with the executive director of the board of pharmacy.

(b) The director shall administer, maintain, and direct the functioning of the database in accordance with this part. The department in consultation with the committee and board may, under state procurement laws, contract with another state agency or private entity to establish, operate, or maintain the database. Additionally, the department, in consultation with the committee and board, shall determine whether to operate the database within the department or contract with another entity to operate the database, based on an analysis of costs and benefits.

(c) The purpose of the database is to increase the quality of patient care by equipping healthcare practitioners with accurate, timely information that the practitioners can use to determine when patients acquiring controlled substances may require counseling or intervention for substance abuse, by collecting and maintaining data as described in this part regarding all controlled substances in Schedules II, III, and IV dispensed in this state, and Schedule V controlled substances identified by the controlled substance database committee as demonstrating a potential for abuse. Further, the database is to be used to assist in research, statistical analysis, criminal investigations, enforcement of standards of health professional practice, and state or federal laws involving controlled substances.

(d) The data required by this part shall be submitted in compliance with this part to the database by any healthcare practitioner who dispenses a controlled substance contained in Schedules II, III, and IV, and Schedule V controlled substances identified by the committee as demonstrating a potential for abuse, or by any healthcare practitioner delegate who is designated to submit data on a healthcare practitioner's behalf. The reporting requirement shall not apply for the following:

(1) A drug administered directly to a patient;

(2) Complimentary packages of medicinal drugs that are labeled as a drug sample or complimentary drug dispersed to the practitioner's own patients adequate to treat the patient for a maximum of forty-eight (48) hours in the regular course of practice without the payment of a fee or remuneration of any kind;

(3) A sample of a schedule IV or schedule V controlled substance in a quantity limited to an amount that is adequate to treat a patient for a

maximum of seventy-two (72) hours or a sample of a non-narcotic schedule V controlled substance in a quantity limited to an amount that is adequate to treat a patient for a maximum of fourteen (14) days, provided without charge by a medical doctor, osteopathic physician, advanced practice nurse with certificates of fitness to prescribe, or physician assistant working at a pain management clinic from providing to that practitioner's patient;

(4) Any drug dispensed by a licensed veterinarian; provided, that the quantity dispensed is limited to an amount adequate to treat the nonhuman patient for a maximum of five (5) days;

(5) Any entity that is registered by the United States drug enforcement administration (DEA) as a narcotic treatment program and is subject to the recordkeeping provisions of 21 CFR 1304.24; or

(6) Any drug dispensed or distributed by a facility; provided, that the quantity dispensed or distributed is limited to an amount that is adequate to treat the patient for a maximum of forty-eight (48) hours.

(e) Notwithstanding subsection (c) or (d), a healthcare practitioner shall submit the dispensing of buprenorphine products in accordance with this part. However, this subsection (e) does not apply to a practitioner when reporting the dispensing of buprenorphine products would conflict with 42 CFR part 2.

53-10-305. Submission of information — Data format.

(a) All healthcare practitioners who prescribe or dispense controlled substances in practice providing direct care to patients in this state by prescribing or dispensing on more than fifteen (15) days in a calendar year total and are required to have a federal drug enforcement administration (DEA) registration pursuant to federal law shall be registered in the controlled substance database. Healthcare practitioners or their agents shall have up to thirty (30) calendar days after receiving a DEA number to register in the database; such privilege shall apply equally to both prescribers and dispensers. Licensed veterinarians who never prescribe or dispense controlled substances in an amount intended to treat a nonhuman patient for more than five (5) days shall not be required to register in the database.

(b)(1) Each healthcare practitioner or healthcare practitioner's agent shall, regarding each controlled substance dispensed, submit to the database all of the following information:

(A) Prescriber identifier;

(B) Dispensing date of controlled substance;

(C) Patient identifier;

(D) Controlled substance dispensed identifier;

(E) Quantity of controlled substance dispensed;

(F) Strength of controlled substance dispensed;

(G) Estimated days' supply;

(H) Dispenser identifier;

(I) Date the prescription was issued by the prescriber;

(J) Whether the prescription was new or a refill;

(K) Source of payment;

(L) The ICD-10 code for any prescription that contains an ICD-10 code; provided, that this shall not be mandatory prior to January 1, 2019, for a dispenser who has not updated the dispenser's software system to enable submission of ICD-10 codes;

(M) A value signifying opioid treatment is occurring pursuant to a medical necessity under § 63-1-164 for any prescription containing the words "medical necessity." The value will be determined by the committee and published through the committee's website; and

(N) Other relevant information as required by rule.

(2) The information in the database, as required by subdivision (b)(1), shall be submitted by a procedure and in a format established by the committee, for each business day but no later than the close of business on the following business day; provided, that a veterinarian shall submit information at least once every fourteen (14) days and shall not be required to use a computerized system in order to submit required information pursuant to this section.

(c) The commissioner, pursuant to § 53-10-311, shall have the authority to change the length of time in which healthcare practitioners are required to submit information to the database through the promulgation of rules pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5. When the committee shortens the length of time in which healthcare practitioners are required to submit information to the database, the department shall provide notice to all healthcare practitioners who are registered in the database at least sixty (60) days prior to the date in which the rule goes into effect. If the committee, pursuant to § 53-10-311, shortens the length of time in which healthcare practitioners must submit information to the database, a healthcare practitioner may provide to the committee a written statement indicating why it creates a hardship for that healthcare practitioner to submit information within that time period, and the committee may grant an extension of up to seven (7) days within which that healthcare practitioner shall submit the information to the database. Such a hardship extension shall be valid for two (2) years and may be renewed by the committee upon request of the healthcare practitioner.

(d) Any healthcare practitioner, except veterinarian healthcare practitioners, that uses a computerized system to record information concerning the dispensing of controlled substances, shall submit the required information to the database utilizing nationally recognized pharmacy telecommunications format standards.

(e) The commissioner, pursuant to § 53-10-311, shall maintain the database in an electronic file or by other means established by the commissioner in such a manner so as not to infringe on the legal use of controlled substances, and in such a manner as to facilitate use of the database for identification of:

(1) Prescribing and dispensing practices and patterns of prescribing and dispensing controlled substances; and

(2) Individuals, facilities, or entities that receive prescriptions for controlled substances from healthcare practitioners, and who subsequently obtain dispensed controlled substances from a healthcare practitioner in quantities or with a frequency inconsistent with generally recognized standards of dosage for that controlled substance, or by means of forged or otherwise false or altered prescriptions.

(f) The committee or the commissioner or a designee appointed by the committee or commissioner may review information in the database. If the committee or commissioner or their designee determines from review that a healthcare practitioner has committed a violation of the law, the committee or commissioner shall notify the entity responsible for licensure, regulation, or

discipline of that healthcare practitioner and shall supply information required by the entity for an investigation of the violation of the law that may have occurred.

(g)(1)(A) The commissioner, pursuant to § 53-10-311, shall by rule establish the electronic format in which the information required under this section shall be submitted to the database, and the committee shall allow for waiver of electronic reporting for individual healthcare practitioners for whom it would cause undue hardship as determined by the committee. The waiver may be valid for two (2) years from ratification by the committee.

(B) The committee may authorize a designee to initially approve a waiver subject to ratification by the committee.

(2) The commissioner shall ensure the database system records and maintains for reference, for a period of at least one (1) year:

(A) The identification of each person who requests or receives information from the database;

(B) The information provided to each person; and

(C) The date and time the information is requested or provided.

(h) The commissioner, in consultation with the committee, shall make rules to:

(1) Effectively enforce the limitations on access to the database as described in this part; and

(2) Establish standards and procedures to ensure accurate identification of individuals requesting information or receiving information from the database without a request.

53-10-310. Practice sites where a controlled substance dispensed required to provide for electronic access to the controlled substance database — Exceptions — Violations and penalties.

(a) Each person or entity operating a practice site where a controlled substance is prescribed or dispensed to a human patient shall provide for electronic access to the database at all times when a healthcare practitioner provides healthcare services to a human patient potentially receiving a controlled substance.

(b) This section shall not apply to any person or entity that is not required to report pursuant to § 53-10-304(d) or § 53-10-305(g).

(c) A violation of subsection (a) is punishable by a civil penalty not to exceed one hundred dollars ($100) per day assessed against the person or entity operating the practice site; provided, however, that the penalty shall only be imposed when there is a continued pattern or practice of not providing electronic access to the database.

(d) Any healthcare practitioner, individual, or entity who is authorized to access the database by this part shall not be subject to a suit for civil damages or held civilly liable for the failure to register in, report to, or check the database, or for actions taken after reasonable reliance on information in the database, or for accessing the database to determine whether or not the healthcare practitioner's professional credentials are being inappropriately used, or for reporting the same to the appropriate authorities, except as otherwise provided in this part.

(e)(1) When prescribing a controlled substance, all healthcare practitioners, unless otherwise exempted under this part, shall check the controlled substance database prior to prescribing one (1) of the controlled substances identified in subdivision (e)(4) to a human patient at the beginning of a new episode of treatment, prior to the issuance of each new prescription for the controlled substance for the first ninety (90) days of a new episode of treatment, and shall check the controlled substance database for that human patient at least every six (6) months when that prescribed controlled substance remains part of the treatment. An authorized healthcare practitioner's delegate may check the controlled substance database on behalf of the healthcare practitioner. A "new episode of treatment" means a prescription for a controlled substance that has not been prescribed by that healthcare practitioner within the previous six (6) months.

(2) When dispensing a controlled substance, all healthcare practitioners, unless otherwise exempted under this part, shall check the controlled substance database prior to dispensing one (1) of the controlled substances identified in subdivision (e)(4) to a human patient the first time that patient is dispensed a controlled substance at that practice site. The dispenser shall check the controlled substance database again at least once every six (6) months for that human patient after the initial dispensing for the duration of time the controlled substance is dispensed to that patient. The initial dispensing check fulfills the check requirement for the first six-month period. An authorized healthcare practitioner's delegate may check the controlled substance database on behalf of the healthcare practitioner.

(3) Before prescribing or dispensing, a healthcare practitioner shall have the professional responsibility to check the database or have a healthcare practitioner delegate check the database if the healthcare practitioner is aware or reasonably certain that a person is attempting to obtain a Schedule II-V controlled substance, identified by the committee or commissioner as demonstrating a potential for abuse for fraudulent, illegal, or medically inappropriate purposes, in violation of § 53-11-402.

(4) The controlled substances that trigger a check of the controlled substance database pursuant to subdivisions (e)(1) and (2) include, but are not limited to, all opioids and benzodiazepines. By rule, the commissioner, pursuant to § 53-10-311, may require a check of the database for additional Schedule II-V controlled substances that are identified by the committee or commissioner as demonstrating a potential for abuse.

(5) The commissioner, pursuant to § 53-10-311, shall adopt rules in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, that establish standards and procedures to be followed by a healthcare practitioner regarding the review of patient information available through the database.

(6) Healthcare practitioners are not required to check the controlled substance database before prescribing or dispensing one (1) of the controlled substances identified in subdivision (e)(4) or added to that list by the committee or commissioner if one (1) or more of the following conditions are met:

(A) The controlled substance is prescribed or dispensed for a patient who is currently receiving hospice care;

(B) [Deleted by 2018 amendment.]

(C) The quantity of the controlled substance which is prescribed or dispensed does not exceed an amount which is adequate for a single,

three-day treatment period and does not allow a refill; or

(D) The controlled substance is prescribed for administration directly to a patient during the course of inpatient or residential treatment in a hospital or nursing home licensed under title 68.

(f) Each appropriate licensure board may promulgate rules pursuant to the Uniform Administrative Procedures Act, to establish procedures, notice requirements, and penalties for healthcare practitioners who fail to register in, report to, or check the controlled substance database as required.

(g) Notwithstanding this part to the contrary, a healthcare practitioner or healthcare practitioner delegate shall not be in violation of this part during any time period in which the controlled substance database is suspended or not operational or the Internet is not operational or available as defined by rules promulgated by the commissioner.

53-11-308. Prescription requirements. [Effective until January 1, 2019. See the version effective on January 1, 2019.]

(a) Except when dispensed directly by a practitioner other than a pharmacy to an ultimate user, no controlled substance in Schedule II may be dispensed without the written prescription of a practitioner.

(b) In emergency situations, Schedule II drugs may be dispensed upon oral prescription of a practitioner, reduced promptly to writing and filed by the pharmacy. Prescriptions shall be retained in conformity with the requirements of § 53-11-305. No prescription for a Schedule II substance may be refilled.

(c) Except when dispensed directly by a practitioner other than a pharmacy to an ultimate user, a controlled substance included in Schedule III or IV that is a prescription drug shall not be dispensed without a written or oral prescription of a practitioner. The prescription shall not be filled or refilled more than six (6) months after the date of the written or oral prescription or be refilled more than five (5) times, unless renewed by the practitioner.

(d) A controlled substance included in Schedule V shall not be distributed or dispensed other than for a medical purpose.

(e) No prescription for any opioids or benzodiazepines may be dispensed in quantities greater than a thirty-day supply.

(f) If a prescriber dispenses any opioids, benzodiazepines, barbiturates, or carisoprodol, then the prescriber shall submit the transaction to the controlled substances monitoring database operated under chapter 10, part 3 of this title.

(g) Any prescribers of opioids, benzodiazepines, barbiturates or carisoprodol, either alone, concurrently, or sequentially with any other opioids, benzodiazepines, barbiturates, or carisoprodol to patients who are in chronic, long-term drug therapy for ninety (90) days or longer shall consider mandatory urine drug testing. This subsection (g) shall not supercede any rules promulgated by the commissioner for urine drug testing by registered pain management clinics.

(h)(1) Prior to prescribing more than a three-day supply of an opioid or an opioid dosage that exceeds a total of a one hundred eighty (180) morphine milligram equivalent dose to a woman of childbearing age, a prescriber shall:

(A) Advise the patient of the risk associated with opioid use during pregnancy;

(B) Counsel the patient on appropriate and effective forms of birth control; and

(C) Offer information about the availability of free or reduced cost birth control to the patient.

(2) As used in this subsection (h) "a woman of childbearing age" means any woman between the ages of fifteen (15) and forty-four (44).

(3) This subsection (h) does not apply if:

(A) The prescriber has previously taken all actions required by subdivision (h)(1) with respect to the patient within the past three (3) months; or

(B) The prescriber reasonably believes that the patient is not capable of becoming pregnant.

(4) If the patient is under eighteen (18) years of age, the physician may satisfy this subsection (h) by advising, counseling, and providing information to the parent or guardian instead of the patient. This subdivision (h)(4) does not prohibit a physician from advising, counseling, and providing information directly to the patient if not otherwise prohibited by law.

(5) The department of health shall develop and publish guidance to assist prescribers of opioids in complying with this subsection (h).

53-11-308. Prescription requirements. [Effective on January 1, 2019. See the version effective until January 1, 2019.]

(a) Except when dispensed directly by a health care prescriber other than a pharmacy to an ultimate user, no controlled substance in Schedule II may be dispensed without the electronic prescription of a health care prescriber, unless authorized by § 63-1-160. To the extent federal law does not permit an electronic prescription, a written prescription from a health care prescriber is required.

(b) In emergency situations, Schedule II drugs may be dispensed upon oral prescription of a health care prescriber, reduced promptly to writing or to electronic form, as appropriate, and filed by the pharmacy. Prescriptions shall be retained in conformity with the requirements of § 53-11-306. No prescription for a Schedule II substance may be refilled.

(c) Except when dispensed directly by a practitioner other than a pharmacy to an ultimate user, a controlled substance included in Schedule III or IV that is a prescription drug shall not be dispensed without a written or oral prescription of a practitioner. The prescription shall not be filled or refilled more than six (6) months after the date of the written or oral prescription or be refilled more than five (5) times, unless renewed by the practitioner.

(d) A controlled substance included in Schedule V shall not be distributed or dispensed other than for a medical purpose.

(e) No prescription for any opioids or benzodiazepines may be dispensed in quantities greater than a thirty-day supply.

(f) If a prescriber dispenses any opioids, benzodiazepines, barbiturates, or carisoprodol, then the prescriber shall submit the transaction to the controlled substances monitoring database operated under chapter 10, part 3 of this title.

(g) Any prescribers of opioids, benzodiazepines, barbiturates or carisoprodol, either alone, concurrently, or sequentially with any other opioids, benzodiazepines, barbiturates, or carisoprodol to patients who are in chronic, long-term drug therapy for ninety (90) days or longer shall consider mandatory urine drug testing. This subsection (g) shall not supercede any rules promulgated by the commissioner for urine drug testing by registered pain management clinics.

(h)(1) Prior to prescribing more than a three-day supply of an opioid or an opioid dosage that exceeds a total of a one hundred eighty (180) morphine milligram equivalent dose to a woman of childbearing age, a prescriber shall:

(A) Advise the patient of the risk associated with opioid use during pregnancy;

(B) Counsel the patient on appropriate and effective forms of birth control; and

(C) Offer information about the availability of free or reduced cost birth control to the patient.

(2) As used in this subsection (h) "a woman of childbearing age" means any woman between the ages of fifteen (15) and forty-four (44).

(3) This subsection (h) does not apply if:

(A) The prescriber has previously taken all actions required by subdivision (h)(1) with respect to the patient within the past three (3) months; or

(B) The prescriber reasonably believes that the patient is not capable of becoming pregnant.

(4) If the patient is under eighteen (18) years of age, the physician may satisfy this subsection (h) by advising, counseling, and providing information to the parent or guardian instead of the patient. This subdivision (h)(4) does not prohibit a physician from advising, counseling, and providing information directly to the patient if not otherwise prohibited by law.

(5) The department of health shall develop and publish guidance to assist prescribers of opioids in complying with this subsection (h).

53-11-311. Use of buprenorphine products.

(a) Any product containing buprenorphine, whether with or without naloxone, may only be prescribed for a use recognized by the federal food and drug administration. This subsection (a) shall not apply to a person:

(1) Who has a documented diagnosis of opiate addiction as shown in their medical record;

(2) Who receives treatment from a provider practicing under 21 U.S.C. § 823(g)(2); and

(3) Who is counted against the total number of patients allowed to the provider as set forth in 21 U.S.C. § 823(g)(2).

(b)(1) Any prescription for buprenorphine mono or for buprenorphine without use of naloxone for the treatment of substance use disorder shall only be permitted to a patient who is:

(A) Pregnant;

(B) A nursing mother;

(C) Has a documented history of an adverse reaction or hypersensitivity to naloxone; or

(D) Directly administered the buprenorphine mono or buprenorphine without use of naloxone by a healthcare provider, acting within the healthcare provider's scope of practice, for the treatment of substance use disorder pursuant to a medical order or prescription order from a physician licensed under title 63, chapter 6 or 9; provided, however, that this subdivision (b)(1)(D) does not permit buprenorphine mono or buprenorphine without use of naloxone to be dispensed to a patient in a manner that would permit it to be administered away from the premises on which it is dispensed.

(2) If the prescriber of buprenorphine mono or buprenorphine without use of naloxone for a patient under subdivision (b)(1)(A) or (b)(1)(B) is not the patient's obstetrical or gynecological provider, the prescriber shall consult with the patient's obstetrical or gynecological provider to the extent possible to determine whether the prescription is appropriate for the patient.

(c)(1) Notwithstanding any other provision of this title, a physician licensed under title 63, chapter 6 or 9, is the only healthcare provider authorized to prescribe any buprenorphine product for any federal food and drug administration approved use in recovery or medication-assisted treatment.

(2) Healthcare providers not licensed pursuant to title 63, chapter 6 or 9 and who are otherwise permitted to prescribe Schedule II or Ill drugs under this title, are prohibited from prescribing any buprenorphine product for treatment of opioid dependence. However, the providers may participate in the assessment and management of patients with an opiate addiction.

(d)(1) A prescriber who treats a patient with more than sixteen milligrams (16 mg) per day of buprenorphine or its therapeutic equivalent for more than thirty (30) consecutive days for treatment of opioid dependence shall clearly document in the patient's medical record why the patient needs the higher dosage amounts of buprenorphine. A prescriber who does not meet the requirements established in the manner described in subdivision (d)(2) and treats a patient with more than twenty milligrams (20 mg) per day of buprenorphine or its therapeutic equivalent for more than thirty (30) consecutive days for treatment of opioid dependence shall, to the extent possible, either consult with an addiction specialist meeting the requirements established in the manner described in subdivision (d)(2) or refer the patient to the addiction specialist for management of the patient's treatment plan. If a prescribing physician cannot make the required consultation or referral as outlined in this subsection (d), the reasons shall be set out in the medical record.

(2) The board of medical examiners and the board of osteopathic examination shall promulgate rules establishing the requirements for licensees to qualify as addiction specialists.

(e) This section shall not apply to perioperative surgery or ventilator sedation that is performed in a licensed healthcare facility set forth in § 68-11-201(3) or (26).

(f) When patients are admitted as inpatients of a hospital, or registered as outpatients of a hospital, prescribers may continue orders for these drug products as part of a medication reconciliation process to continue home medications as previously prescribed and without restrictions pertaining to the use of the product until the patient is discharged from the facility. However, prescriptions written upon discharge from the facility and intended to be filled by the patient at a retail pharmacy and consumed post-discharge shall follow the requirements of this section.

(g)(1)(A) Notwithstanding any other law, the dispensing of buprenorphine products is prohibited by any person or entity unless the dispensing is done by a nonresidential office-based opiate treatment facility, as defined in § 33-2-402, with approval from the department of mental health and substance abuse services, a nonresidential substitution-based treatment center for opiate addiction as defined in § 33-2-402, a pharmacy licensed under title 63, chapter 10, or a hospital licensed under title 33, or title 68, chapter 11. This subsection (g) does not apply to the administering of

buprenorphine products as otherwise permitted by law.

(B) A pharmacy and a distributor, as defined in § 63-10-204, shall report to the department of health the quantities of buprenorphine that the pharmacy or distributor delivers to nonresidential office-based opiate treatment facilities in this state.

(2) The department of mental health and substance abuse services shall promulgate rules to establish requirements for approval of dispensing of buprenorphine products at a nonresidential office-based opiate treatment facility as defined in § 33-2-402. These rules shall include a requirement that a provider who dispenses buprenorphine products at a nonresidential office-based opiate treatment facility must report the fact that the provider dispenses buprenorphine products to the provider's licensing board, check the controlled substance database prior to dispensing, and enter the amounts dispensed into the controlled substance database, to the extent permitted by 42 CFR part 2.

53-11-401. Miscellaneous offenses — Penalties.

(a) It is unlawful for any person:

(1) Who is subject to part 3 of this chapter, to distribute or dispense a controlled substance in violation of § 53-11-308 or to distribute or dispense any controlled substance for any purposes other than those authorized by and consistent with the person's professional or occupational licensure or registration law, or to distribute or dispense any controlled substance in a manner prohibited by the person's professional or occupational licensure or registration law;

(2) Who is a registrant to manufacture a controlled substance not authorized by the registrant's registration, or to distribute or dispense a controlled substance not authorized by the registrant's registration to another registrant or other authorized person;

(3) To refuse or fail to make, keep or furnish any record, notification, order form, statement, invoice or information required under part 3 of this chapter and this part, or title 39, chapter 17, part 4, except sanctions against a health care provider for the provider's failure to make a report required by § 53-11-309(a) shall be limited only to cases involving a pattern of willful failure to make such reports and, in those instances, the health care provider shall only be subject to a civil penalty assessed by the provider's licensing board;

(4) To refuse an entry into any premises for any inspection authorized by part 3 of this chapter and this part, or title 39, chapter 17, part 4; or

(5) Knowingly to keep or maintain any store, shop, warehouse, dwelling, building, vehicle, boat, aircraft or other structure or place that is resorted to by persons using controlled substances in violation of part 3 of this chapter and this part, or title 39, chapter 17, part 4, for the purpose of using these substances, or that is used for keeping or selling them in violation of part 3 of this chapter and this part, or title 39, chapter 17, part 4.

(b)(1) A violation of this section is a Class D felony; provided, however, a healthcare provider who fails to make a report required by § 53-11-309 shall not be guilty of a felony and shall be punishable only by the sanctions set forth in subdivision (a)(3); and provided, further, that a person who fails to comply with § 53-11-308(h) is not guilty of a felony and shall be punishable only by a civil penalty assessed by the provider's licensing board and only in

cases involving a pattern of willful failure to comply.

(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.

54-21-104. Permits and tags — Fees.

(a) Unless otherwise provided in this chapter, no person shall construct, erect, operate, use, maintain, or cause or permit to be constructed, erected, operated, used, or maintained, any outdoor advertising within six hundred sixty feet (660′) of the nearest edge of the right-of-way and visible from the main traveled way of the interstate or primary highway systems without first obtaining from the commissioner a permit and tag.

(b)(1) Permits and tags shall not be issued until applications are made in accordance with and on forms provided by the commissioner and accompanied by payment of a fee of two hundred dollars ($200) for each permit and tag requested. This fee shall represent payment for the required tag and for the first annual permit and shall not be subject to return upon rejection of any application. The commissioner shall use best efforts to process an application for a permit, in accordance with the rules of the department of transportation, within no greater than sixty (60) days after a completed application is received. If the application is incomplete or defective on its face, the commissioner shall notify an applicant in writing no later than fifteen (15) days of receipt of the filed application of its incomplete or defective status, and indicate the information or documentation that is needed to complete or correct the application. If a decision either to issue or deny the permit cannot be made within sixty (60) days after receipt of the completed or corrected application, the commissioner shall contact the applicant prior to the expiration of the sixty (60) days to provide an explanation of the reasons why additional time is needed to process the application.

(2) An application for an addendum to an existing permit requesting authorization to upgrade an existing outdoor advertising device to a changeable message sign with a digital display, as provided in § 54-21-122, shall also be accompanied by payment of a fee of two hundred dollars ($200), which shall not be subject to return upon rejection of the application. No outdoor advertising device with a digital display lawfully permitted, erected, and in operation prior to June 1, 2008, shall be required to apply for such an addendum or to pay the fee.

(3) For the purposes of issuing permits and regulating outdoor advertising devices in accordance with this chapter, the location of a permitted device shall be determined by the location of the supporting monopole, or by the location of the supporting pole nearest to the highway in the case of a device erected on multiple supporting poles; provided, however, that where a permitted multiple-pole device may be lawfully reconstructed, the replacement of the supporting poles with a monopole shall not be considered a change of location requiring a new permit if:

(A) The permittee gives advance notice to, and receives the prior approval of, the department before reconstructing the device;

(B) The monopole is erected within the line segment defined by the previous supporting poles; and

(C) The location of the monopole meets applicable spacing requirements.

(c)(1) All tags issued shall be permanent; however, permits shall be renewed annually between November 1 and December 31, and the commissioner shall charge the sum of forty dollars ($40.00) for the year 2008, fifty dollars ($50.00) for 2009, sixty dollars ($60.00) for 2010, and seventy dollars ($70.00) for 2011 and thereafter for annual renewal of each permit.

(2) In the event that a permit has not been renewed by December 31 for the following year as required by subdivision (c)(1), the permit shall not be considered void until the commissioner has given the permit holder notice of the failure to renew and the opportunity to correct the unlawfulness, as provided in § 54-21-105(b). The failure to renew may be remedied by submitting a late renewal form and paying the annual permit renewal fee together with a late fee, in the total amount of two hundred dollars ($200), within thirty (30) days of receipt of the notice. If a permit holder fails to renew the permit within this thirty-day notice period, then the permit shall be void and the outdoor advertising device shall be considered unlawful and subject to removal as further provided in § 54-21-105. The notice given by the commissioner shall include the requirements for renewal and consequences of failure to renew as provided by this subdivision (c)(2).

(d) For each permit issued, the commissioner shall deliver to the applicant a serially numbered permit tag, which shall be attached on the outdoor advertising in a manner as to be visible from the main traveled way of the interstate or primary highway. If more than one (1) side of any structure is used for outdoor advertising, a permit and tag shall be required for each side. Any outdoor advertising sculptured in the round shall be considered to have three (3) sides.

(e) For each replacement tag issued, the commissioner shall deliver to the applicant a serially numbered permit tag. The cost of this replacement tag shall be twenty-five dollars ($25.00), payable at the time of request.

(f) Whenever it becomes necessary to transfer a permit from one (1) permit holder to another, the department will charge a ten-dollar ($10.00) transfer fee to the permit holder of record.

54-21-119. Vegetation control permits and fees.

(a)(1) The commissioner shall issue to the owners or holders of lawfully issued outdoor advertising permits, which definition includes those described as legal conforming, grandfathered and nonconforming structures in

federal regulations, when the face of the outdoor advertising is generally visible to occupants of vehicles from the main traveled ways of the system on the date of erection, permits to remove, cut and trim vegetation located on the right-of-way adjacent to the outdoor advertising and replace the vegetation as directed, whenever the vegetation prevents clear visibility for a distance not to exceed five hundred yards (500 yds.) to occupants of vehicles using the main traveled ways of the controlled systems. Notwithstanding any other provision of this chapter to the contrary, vegetation that, on the date of erection of the outdoor advertising, blocks the view of the outdoor advertising, in whole or in any part, for a distance not to exceed five hundred yards (500 yds.), to occupants of vehicles using the main traveled ways, shall not be eligible for removal under a vegetation control permit. The maximum area to be controlled shall not exceed five hundred feet (500′). The regional engineering director for the department shall issue a vegetation control permit where all criteria are met, following submission of information specified and a nonrefundable fee of one hundred dollars ($100) for each face involved. Vegetation control permits will be issued upon payment of a fee of one hundred fifty dollars ($150) per face for supervision of the work. All fees received by the commissioner under this section shall be deposited to the highway fund for the administration of this part and for other purposes. Each subsequent year a maintenance permit may be purchased for fifty dollars ($50.00) to provide annual maintenance at any one (1) location that is consistent with the original vegetation control permit.

(2) The commissioner shall use best efforts to process an application for a permit, in accordance with the rules of the department of transportation, within no greater than thirty (30) days after a completed application is received. If the application is incomplete or defective on its face, the commissioner shall notify an applicant in writing no later than fifteen (15) days of receipt of the filed application of its incomplete or defective status, and indicate the information or documentation that is needed to complete or correct the application. If a decision to approve or deny the application cannot be made within thirty (30) days after receipt of the completed or corrected application, the commissioner shall contact the applicant prior to the expiration of the thirty (30) days to provide an explanation of the reasons why additional time is needed to process the application. If the application is approved, the applicant shall notify the commissioner of the date on which the applicant wishes the permit to be issued. The applicant shall complete the authorized vegetation control within the time period specified in the permit, and in any event, the applicant shall complete the vegetation control within one (1) year after the date on which the application was approved or the application approval and permit shall be void.

(b) One (1) vegetation control permit fee will be waived for those owners who voluntarily remove a nonconforming structure. If the nonconforming structure to be removed is not at least one hundred fifty square feet (150 sq. ft.) in size, two (2) nonconforming structures must be removed to authorize waiver. The latter applies only when the structure around which control is to occur is larger than three hundred square feet (300 sq. ft.).

(c) This waiver shall not be used as evidence in any future eminent domain proceeding relating to nonconforming structures.

(d) Notwithstanding any other law to the contrary, it is the legislative intent that issuance of permits and carrying out of the work pursuant to the permits are lawful activities and shall not be construed as violating any provision of

law.

(e) The commissioner may revoke, suspend or modify any vegetation control permit for cause, including violation of any terms or conditions of the permit.

55-3-121. Transfer by operation of law — Special plates — Fee.

(a) Whenever the title or interest of an owner in or to a registered vehicle passes to another otherwise than by voluntary transfer, the vehicle registration shall expire and the vehicle shall not be operated upon the highways unless and until the person entitled to possession of the vehicle shall apply for and obtain the registration, with the following exceptions:

(1) The vehicle may be operated by the person entitled to its possession or the person's legal representative upon the highways from the point the motor vehicle comes into the person's possession to the person's place of business or to some garage or warehouse, upon displaying upon the vehicle the registration plate or plates issued to the former owner; or

(2) In the event title has become vested in the person holding a lien or encumbrance upon the vehicle, the person may apply to the department for and obtain special plates or temporary plates as may be issued under § 55-4-226(c)(4), and may operate any such repossessed vehicle under the special plates or temporary plates only for purposes of transporting the vehicle to a garage or warehouse or for purposes of demonstrating or selling the vehicle.

(b) Any person applying for and eligible to receive a plate pursuant to subsection (a) who desires to make a lawful use of the vehicle for a period of time in excess of seven (7) days, but not more than thirty (30) days, may be issued a plate upon payment of a fee of ten dollars ($10.00).

55-4-104. Expiration of certificates and plates — Renewal — Decals — Fees — Renewal of special plates.

(a) All certificates of registration and registration plates issued under chapters 1-6 of this title shall expire at twelve o'clock (12:00) midnight on March 31 of each year. These certificates of registration and registration plates shall be available for renewal and purchase commencing on March 1 of each year.

(b) There is excepted from application of subsection (a) all of the registration classes for private passenger motor vehicles, motorcycles registered after March 23, 1994, under Class (A) of § 55-4-111, and Class 1 registrations only of the combined farm and limited private trucks classification. The application of the provisions contained in subsection (a) do not apply to registration plates for handicapped drivers, and this subsection (b) for registration renewals at alternative intervals apply to registration plates for handicapped drivers. With respect to these motor vehicles, the commissioner shall establish a system of registration renewals at alternative intervals which will allow for the distribution of the registration workload as uniformly as is practicable throughout the calendar year. Registrations issued under the alternative method are valid for twelve (12) months, and expire on the last day of the last month of the registration period. However, during a transition period, or at any time thereafter when the commissioner shall determine that the volume of work for any given interval is unduly burdensome or costly, either registrations or renewals, or both of them, may be issued for terms of not less than six (6) nor

more than eighteen (18) months; provided further, however, that if a motor vehicle or motorcycle owner attests that the owner will be absent from the state during the owner's annual registration renewal month and all other requirements for registration have been met, then during the ninety-day period immediately preceding the annual registration renewal month, the registration may be renewed for the original registration period. The commissioner shall provide all registration plates, tabs, stickers and other required devices to county clerks at least ninety (90) days prior to each registration period to facilitate such early renewal. The fee imposed for registration of any vehicle under the alternative interval method for a period of other than twelve (12) months shall be proportionate to the annual fee fixed for the vehicle and modified in no other manner, except that the proportional fee shall be rounded off to the nearest quarter of a dollar (25¢).

(c)(1) For purposes of this subsection (c):

(A) "Business" means any business that registers not less than fifteen thousand (15,000) vehicles annually and is engaged in the rental of motor vehicles, trucks, and trailers for periods of thirty-one (31) days or less when the vehicle is delivered to the lessee in this state;

(B) "Trailers" has the same meaning as defined in § 55-1-105; and

(C) "Trucks" means vehicles with a manufacturer's ton rating not exceeding three-quarter (¾) ton and having a panel or pickup body style or any freight motor vehicles with a gross weight of twenty-six thousand pounds (26,000 lbs.) or less.

(2) Notwithstanding subsections (a) and (b), the department may issue any business under this subsection (c) registrations that are valid for twenty-four (24) months, and expire on the last day of the last month of the registration period. With respect to vehicles registered by such business, the commissioner may establish a system of registration renewals at alternate intervals that will allow for the distribution of the registration workload as uniformly as is practicable throughout the registration period. The department shall set twenty-four-month registration fees in an amount that offsets revenue that would otherwise be generated by twelve-month registration fees in effect prior to July 1, 2017.

(d)(1) Notwithstanding subsection (a) to the contrary, the commissioner shall establish a system of registration and registration renewals for vehicles registered pursuant to § 55-4-113, whereby these registration and registration renewals expire one (1) year after the purchase or lease for vehicles that are purchased or leased after July 1, 1996. If registration plates are transferred to these vehicles from a vehicle previously registered pursuant to § 55-4-113, then the fee for the registration plate shall be prorated accordingly.

(2) Certificates of registration, registration plates and renewals of registrations and plates registered pursuant to § 55-4-113, that expire February 28, 1997, are extended until twelve o'clock (12:00) midnight on March 31, 1997. Thereafter renewals of the registration and registration plates shall be in accordance with subsection (a).

(e)(1) Upon proof of the payment of all fees accruing therefor, the commissioner shall have continuing authority to revalidate motor vehicle registration plates for a period of one (1) year at a time, or one (1) or more quarters of a year, and is authorized to supply the county clerks of the several counties with tabs, stickers, or other devices, that shall be affixed to the registration

plates revalidated to indicate the period for which these revalidated registration plates shall be valid. The tab, sticker, or other device for the revalidated registration plate so affixed to the registration plate shall be evidence that all state fees accruing therefor and applicable local wheel or road taxes have been paid, unless the local legislative body requires a separate tab, sticker, or other device evidencing payment of the local wheel or road tax be affixed, pursuant to § 5-8-102(d)(3).

(2) The commissioner shall not issue a registration renewal for a vehicle based in a county that has been designated by the Tennessee air pollution control board to have a motor vehicle inspection and maintenance program in order to attain or maintain compliance with national ambient air quality standards, except in accordance with terms and conditions as are established in rules of the board.

(f) Any county that ceases to have an inspection and maintenance program pursuant to § 68-201-119(b)(1) may, by action of its governing body, increase the amount of any clerk's fee imposed on any initial registration, or at the time of renewal, by an amount up to four dollars ($4.00). Of any increase up to four dollars ($4.00), the clerk shall retain one dollar ($1.00) and remit, as directed by the county governing body, the balance of any funds to the county general fund.

55-4-110. Display of registration plates — Manner — Penalty for violation.

(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 (¾) 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; provided, if a motorcycle is equipped with vertically mounted license plate brackets, its license plate shall be mounted vertically with the top of such 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) A violation of this section is a Class C misdemeanor. All proceeds from the fines imposed by this subsection (d) 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 (d) 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 (d)(3) shall be considered a nonmoving traffic violation and no points shall be added to a driver's record for such violation.

55-4-113. Registration taxes for freight motor vehicles. [Effective until January 1, 2019. See the version effective on January 1, 2019.]

(a) The registration taxes for trucks and truck tractors shall be:

(1) **Private Carriers and Public Household Goods Carriers.** Fixed load vehicles, as defined in § 55-1-117, so designated and used only for the transportation of equipment that is mounted thereon may be registered at a rate of twenty-five percent (25%) of the tax schedules set forth in subdivision (a)(2);

(2) **Private Carriers, Public Carriers and Household Goods Carriers.** Every person, firm or corporation operating, for commercial purposes, a freight motor vehicle over the roads of the state shall first register the vehicle with the department and shall pay a tax as follows, according to the indicated classes set forth in this subdivision (a)(2):

(A)	Class 1	Freight motor vehicles with declared maximum gross weight, including vehicle and load, of not more than nine thousand pounds (9,000 lbs.). Registration tax	$ 68.50
(B)	Class 2	Freight motor vehicles with declared maximum gross weight, including vehicle and load, not in excess of sixteen thousand pounds (16,000 lbs.). Registration tax	122.50
(C)	Class 3	Freight motor vehicles with declared maximum gross weight, including vehicle and load, not in excess of twenty thousand pounds (20,000 lbs.). Registration tax	327.50
(D)	Class 4	Freight motor vehicles with declared maximum gross weight, including vehicle and load, not in excess of twenty-six thousand pounds (26,000 lbs.). Registration tax	481.00
(E)	Class 5	Freight motor vehicles with declared maximum gross weight, including vehicle and load, not in excess of thirty-two thousand pounds (32,000 lbs.). Registration tax	635.00

(F)	Class 6	Freight motor vehicles with declared maximum gross weight, including vehicle and load, not in excess of thirty-eight thousand pounds (38,000 lbs.). Registration tax	711.00
(G)	Class 7	Freight motor vehicles with declared maximum gross weight, including the weight of vehicle and load, not in excess of forty-four thousand pounds (44,000 lbs.). Registration tax	788.00
(H)	Class 8	Freight motor vehicles with declared maximum gross weight, including the weight of vehicle and load, not in excess of fifty-six thousand pounds (56,000 lbs.). Registration tax	942.00
(I)	Class 9	Freight motor vehicles with declared maximum gross weight, including the weight of vehicle and load, not in excess of sixty-six thousand pounds (66,000 lbs.). Registration tax	1019.00
(J)	Class 10	Freight motor vehicles with declared maximum gross weight, including the weight of vehicle and load, not in excess of seventy-four thousand pounds (74,000 lbs.). Registration tax	1,198.50
(K)	Class 11	Freight motor vehicles with declared maximum gross weight, including the weight of vehicle and load, not in excess of eighty thousand pounds (80,000 lbs.). Registration tax	1,352.50
(L)	Class 12	Fixed load vehicles, as defined in § 55-1-117, may be registered at twenty-five percent (25%) of the rate set forth in this subdivision (a)(2) for a vehicle of comparable weight;	

(3) **Combined Farm and Limited Private Trucks.**

(A) Motor vehicles used exclusively for the movement of farm products for the grower from the point of production to the first market, or operated as farm trucks, or as a logging and lumbering truck as defined in subdivision (a)(3)(C), or as the owner's private conveyance, transporting only tangible personal property belonging to the owner or a guest occupant, shall be classified by the commissioner and registered with the department as freight motor vehicles at the following taxes in lieu of those set out in subdivision (a)(1):

Class 1	$ 39.53
Class 2	56.30
Class 3	128.90
Class 4	160.80
Class 5	207.00
Class 6	237.80
Class 7	262.00
Class 8	317.00

Class 9 ..... 363.20
Class 10 ..... 420.40
Class 11 ..... 561.20
.....

(B) There shall not be eligible for registration under this exception to the general licensing provisions any motor vehicles operated commercially as part of a business venture or for delivery service to customers by dairies, hatcheries, pharmacies, grocers, service stations, garages and the like; however, farm trucks used by egg farmers to transport eggs from the point of production to the first market shall be registered with the department as freight motor vehicles at taxes in subdivision (a)(3)(A) in lieu of those set out in subdivision (a)(1);

(C) For purposes of this section, "logging and lumbering trucks" are those trucks used for hauling logs, pulpwood, bark, wood chips, and wood dust from the woods to the mill or for hauling lumber, bark, wood chips, and wood dust from the mill to a loading or storage place;

(D) Truck tractors used exclusively to pull lowboy-type trailers on which are transported machinery that is used only for agricultural purposes, such as, but not limited to, terracing, clearing land, and building ponds, levees, ditches and/or canals; and trucks on which are mounted lime or fertilizer spreaders may register in this category under the appropriate weight class. The use of the highways by these limited use motor vehicles registered in this class is restricted to that which is incidental to the movement of the designated machinery from farm to farm and any volume and unpackaged lime and fertilizer from the distribution point to the farm;

(4) **Miscellaneous Classes.** Well drillers as defined in § 55-1-117 ..... $ 55.20;

(5) **Freight trailers, semitrailers and pole trailers.**

(A) Freight trailers, semitrailers, and pole trailers used primarily for hauling freight and trailers used in the furtherance of a business, any trailer not required to be registered but which the owner desires to be registered, shall be registered and, in addition to the tax herein prescribed for trucks and truck tractors, there shall be imposed on vehicles so classified a registration tax of ninety-five dollars ($95.00). The certificate of registration and registration plate issued for a specific vehicle shall continue valid for the duration of the owner's interest in that vehicle;

(B)(i) The provisions of § 55-4-101 to the contrary notwithstanding, no registration for trailers, semitrailers or pole trailers shall be transferred for any reason and a new registration shall be required for additional trailers;

(ii) The commissioner may, in his discretion, require an owner of a freight trailer, semitrailer, or pole trailer registered in this state pursuant to subdivision (a)(5)(A) to provide written confirmation to the department as to whether or not the trailer has been destroyed, abandoned, sold, or otherwise transferred to another owner and still bears the permanent registration plate originally issued to the trailer;

(iii) If such owner provides written confirmation to the department that the trailer has been destroyed, abandoned, sold, or otherwise transferred to another owner and the trailer has not been properly registered to the new owner, the commissioner shall immediately terminate the registration and plate originally assigned to the trailer

under the name of the owner of record;

(iv) If such owner fails to provide written confirmation within ninety (90) days of the date of the commissioner's request, the commissioner may, in the commissioner's discretion, terminate the registration and plate originally assigned to the trailer under the name of the owner of record;

(v) Whenever the title to a freight trailer, semitrailer, or pole trailer registered in this state pursuant to subdivision (a)(5)(A) is destroyed, abandoned, sold, or otherwise transferred to another owner, the registration of the trailer shall expire. If the trailer is sold or otherwise transferred to a new owner, the new owner shall obtain a new registration of the trailer. Notwithstanding any law to the contrary, the department may issue to such new owner a new or existing registration plate bearing the same alpha-numerical characters as were affixed to such trailer at the time of transfer to the new owner; and

(C) Implements designed for carrying and distributing fertilizer shall not be subject to the licensing requirement imposed on trailers, and when used for the transportation of fertilizer between a plant and a farm the gross weight of the implement and its cargo shall not be considered in determining the licensing requirement for the prime mover;

(6) **Special Zone Licenses.**

(A) **Class 1.** It shall be permissible for any owner or operator of a freight motor vehicle that is to be operated exclusively within a zone limited to the streets of a designated municipal corporation and to the highways for a distance not to exceed fifteen (15) air miles beyond the limits of the municipality, to apply for and be issued a special municipal zone license. In counties having a metropolitan form of government, the county line shall be the limit for the operation of motor vehicles registered under this special license. The annual fee for this special license shall be four hundred ninety-three dollars ($493) for freight motor vehicles with a declared maximum gross weight not exceeding seventy-four thousand pounds (74,000 lbs.), and an annual fee of five hundred seventy dollars ($570) for freight motor vehicles with a declared maximum gross weight not exceeding eighty thousand pounds (80,000 lbs.). The annual fee for this special license for ready-mix concrete trucks shall be three hundred sixty-one dollars ($361); and

(B) **Class 2.** It shall be permissible for any owner or operator having a freight motor vehicle that is to be operated exclusively in a given county, and the counties that adjoin it, to apply for and be issued a special county zone license. The owner must, upon application for this special license, declare the base county and attest that the vehicle is to be operated exclusively in the base county and such other counties as may adjoin it. Movements from the base county to one (1) adjoining are restricted to the delivery of freight to its final destination, or to the place of consignment, or for the purpose of bringing freight from its place of origin to a point in the base county. The annual fee for this special license shall be six hundred thirty-six dollars ($636) for freight motor vehicles with a declared maximum gross weight not exceeding seventy-four thousand pounds (74,000 lbs.), and an annual fee of seven hundred thirty-five dollars ($735) for freight motor vehicles with a declared maximum gross weight not exceeding eighty thousand pounds (80,000 lbs.). The annual fee for this special license for ready-mix concrete trucks shall be four hundred sixty dollars

($460); and

(7)(A) Registration being a condition precedent to vehicular use in this state, it is the intent of this section that the owner or operator of a freight motor vehicle shall pay a registration tax sufficient to allow for its operation under a declared maximum gross weight limited only by the following scale of maximum weights for its axle configuration:

(i) For any single axle, the maximum allowable weight shall be twenty thousand pounds (20,000 lbs.); and

(ii) For any tandem axle group, the maximum allowable weight shall be thirty-four thousand pounds (34,000 lbs.);

(B) When a vehicle on which the tax has not been paid, or an adequate tax has not been paid, is found in operation, the owner or operator shall be required to register or, if applicable, reregister it in a suitable weight class and, in addition to the statutory registration taxes, shall be subject to a tax assessed at the rate of five cents (5¢) per pound on each pound of weight for which no Tennessee tax has been previously paid. On an overweight poundage equal to not more than three percent (3%) of the maximum weight a freight motor vehicle in that classification is allowed, the tax per pound of the overage shall be only three cents (3¢) per pound. If the weight of the vehicle is more than three percent (3%) in excess of the maximum weight applicable to the class in which it is registered, however, the tax of five cents (5¢) per pound shall be imposed on any poundage over the three-percent allowance;

(C) When a vehicle registered in some class adequate for its lawful operational weight is found in operation at a weight exceeding the limit of the license, for which the tax has been paid, the operator shall be assessed an additional tax at the rate of five cents (5¢) per pound on each pound over the maximum allowed on the license. On an overweight poundage equal to not more than three percent (3%) of the maximum weight a freight motor vehicle in that classification is allowed, the tax per pound of the overage shall be only three cents (3¢) per pound. If the weight of the vehicle is more than three percent (3%) in excess of the maximum weight applicable to the class in which it is registered, however, the tax of five cents (5¢) per pound shall be imposed on any poundage over the three-percent allowance;

(D) Nonresidents operating vehicles under the provisions of a reciprocity agreement shall likewise be subject to the additional taxes provided under this subdivision (a)(7) when their vehicles are operated in excess of the licensed weight, or regardless of the licensed weight, in excess of eighty thousand pounds (80,000 lbs.);

(E) When the operator of any freight motor vehicle shall fail to load it or have it loaded in a manner and at weights conforming to the axle weight limitations set forth in this subdivision (a)(7), there shall be imposed a tax assessed on the basis of five cents (5¢) per pound on each pound of weight that exceeds the limit on an axle or group of axles. Except, with respect to vehicles being used to transport the products identified under § 55-7-203(b)(6), liability for the tax imposed by this subdivision (a)(7)(E) shall only begin to run commencing with the first pound that exceeds the total weight allowable for the number and type of its axles. On an overweight poundage equal to not more than three percent (3%) of the axle weight limit imposed for the classification in which a freight motor vehicle is

registered, the tax per pound of the overage shall be only three cents (3¢) per pound. If the weight of the vehicle is more than three percent (3%) in excess of the maximum applicable axle weight, however, the tax of five cents (5¢) per pound shall be imposed on any poundage over the three-percent allowance;

(F) When any freight motor vehicle is found in operation with a gross weight in excess of the road and bridge weights posted by the commissioner of transportation pursuant to § 55-7-205, or weight that exceeds the maximum allowable under an overweight permit issued by the commissioner, the operator of a vehicle shall be assessed a tax at the rate of five cents (5¢) per pound for each pound of excess weight. On an overweight poundage equal to not more than three percent (3%) of the applicable weight limit, the tax shall be only three cents (3¢) per pound. If the weight of the vehicle is more than three percent (3%) in excess of the maximum applicable weight, however, the tax of five cents (5¢) per pound shall be imposed on any poundage over the three-percent allowance;

(G)(i) The provisions of this subdivision (a)(7) respecting licensing and the assessment of additional taxes for excessive weights shall apply with respect to vehicles registered under the allowance for "Special Zone Licenses";

(ii) For the first offense, any owner of a freight motor vehicle that is operated in violation of the territorial limitation of a special zone license issued pursuant to this subdivision (a)(7) shall be subject to assessment of a penalty by the department, which shall be twenty-five percent (25%) of the special zone license fee for the full year with no credit or rebate for any portion of the year in which a license is unused. All funds collected pursuant to this subdivision (a)(7)(G)(ii) shall be earmarked for the enforcement of these zone license provisions;

(iii) On a second offense, occurring within the same licensing year as the first offense, in addition to the penalty specified in subdivision (a)(7)(G)(ii), any licensee whose truck is found to be in violation of the territorial limitation placed on the license shall be required to immediately reregister it under an applicable general licensing provision for a period of one (1) year following the date on which the second offense occurred;

(H) All taxes imposed by this section shall be a part of the registration taxes or fees and shall be payable to the department. Upon becoming delinquent, these taxes or fees shall be subject to collection by the commissioner of revenue under title 67, chapter 1, part 14. The assessment of these taxes shall in no wise be restricted through the assessment of other taxes for some prior violation or any other condition relating to the privilege of operating the vehicle over the streets and highways of this state;

(I) A motor vehicle otherwise properly registered in its class pursuant to this section shall not be in violation of the maximum gross weight for its class, including vehicle and load, if the vehicle is found to have exceeded the maximum gross weight for its class solely by the occasional towing of a fork lift or tow motor where no part of the weight of such equipment rests on the towing vehicle; and the weight of the equipment shall not be considered in determining whether the motor vehicle has exceeded its maximum gross weight, including the load thereon, and in determining

the licensing requirements for the motor vehicle in such circumstances;

(J)(i) When any logging truck, as defined in § 55-7-203, is found in operation with a gross weight in excess of the weights established by law, the operation of the vehicle shall not be assessed a tax if the vehicle's excess weight is less than ten percent (10%) of the vehicle's gross weight. If the weight of the vehicle is greater than ten percent (10%) in excess of the maximum applicable weight, the tax of five cents (5¢) per pound shall be imposed on any poundage over the maximum applicable weight;

(ii) If the commissioner of transportation is formally notified by an appropriate federal officer that as a result of any provision of this subdivision (a)(7)(J) that Tennessee will lose federal funds, then such provision shall be void and inoperative. A loss of federal funds as a result of any provision of this subdivision (a)(7)(J) shall render the provision void and inoperative;

(K) When a freight motor vehicle is registered under subdivision (a)(3)(A), as a combined farm and limited private use truck and being operated commercially or as a commercial vehicle and is found in operation in violation of subdivision (a)(3)(A), the owner shall be subject to assessment of a penalty by the department, which shall be twenty-five percent (25%) of the commercial license fee for the full year with no credit or rebate for any portion of the year in which a license is unused;

(L) The penalties provided for in subdivision (a)(7), shall be waived upon submission within thirty (30) days to the commissioner, of proof that the vehicle has been properly registered in the appropriate classification.

(b) There shall be added to all the vehicle registration taxes imposed by this section a two and one-half percent (2.5%) increase, rounding to the nearest fifty cents (50¢), which shall be designated as the department of safety's safety inspection fee pursuant to § 65-15-112. This safety inspection fee shall not apply to a vehicle registering pursuant to subdivision (a)(3). This safety inspection fee shall be collected as a part of the vehicle registration taxes required by this section, and shall not be used for any purpose other than to fund the motor vehicle safety enforcement activities of the department of safety.

55-4-113. Registration taxes for freight motor vehicles. [Effective on January 1, 2019. See the version effective until January 1, 2019.]

(a) The registration taxes for trucks and truck tractors shall be:

*(1) **Private Carriers and Public Household Goods Carriers.** Fixed load vehicles, as defined in § 55-1-117, so designated and used only for the transportation of equipment that is mounted thereon may be registered at a rate of twenty-five percent (25%) of the tax schedules set forth in subdivision (a)(2);*

*(2) **Private Carriers, Public Carriers and Household Goods Carriers.** Every person, firm or corporation operating, for commercial purposes, a freight motor vehicle over the roads of the state shall first register the vehicle with the department and shall pay a tax as follows, according to the indicated classes set forth in this subdivision (a)(2):*

(A)	*Class 1*	*Freight motor vehicles with declared maximum gross weight, including vehicle and load, of not more than nine thousand pounds (9,000 lbs.). Registration tax*	*$ 68.50*
(B)	*Class 2*	*Freight motor vehicles with declared maximum gross weight, including vehicle and load, not in excess of sixteen thousand pounds (16,000 lbs.). Registration tax*	*122.50*
(C)	*Class 3*	*Freight motor vehicles with declared maximum gross weight, including vehicle and load, not in excess of twenty thousand pounds (20,000 lbs.). Registration tax*	*327.50*
(D)	*Class 4*	*Freight motor vehicles with declared maximum gross weight, including vehicle and load, not in excess of twenty-six thousand pounds (26,000 lbs.). Registration tax*	*481.00*
(E)	*Class 5*	*Freight motor vehicles with declared maximum gross weight, including vehicle and load, not in excess of thirty-two thousand pounds (32,000 lbs.). Registration tax*	*635.00*
(F)	*Class 6*	*Freight motor vehicles with declared maximum gross weight, including vehicle and load, not in excess of thirty-eight thousand pounds (38,000 lbs.). Registration tax*	*711.00*
(G)	*Class 7*	*Freight motor vehicles with declared maximum gross weight, including the weight of vehicle and load, not in excess of forty-four thousand pounds (44,000 lbs.). Registration tax*	*788.00*
(H)	*Class 8*	*Freight motor vehicles with declared maximum gross weight, including the weight of vehicle and load, not in excess of fifty-six thousand pounds (56,000 lbs.). Registration tax*	*942.00*
(I)	*Class 9*	*Freight motor vehicles with declared maximum gross weight, including the weight of vehicle and load, not in excess of sixty-six thousand pounds (66,000 lbs.). Registration tax*	*1019.00*
(J)	*Class 10*	*Freight motor vehicles with declared maximum gross weight, including the weight of vehicle and load, not in excess of seventy-four thousand pounds (74,000 lbs.). Registration tax*	*1,198.50*
(K)	*Class 11*	*Freight motor vehicles with declared maximum gross weight, including the weight of vehicle and load, not in excess of eighty thousand pounds (80,000 lbs.). Registration tax*	*1,352.50*
(L)	*Class 12*	*Fixed load vehicles, as defined in § 55-1-117, may be registered at twenty-five percent (25%) of the rate set forth in this subdivision (a)(2) for a vehicle of comparable weight;*	

(3) ***Combined Farm and Limited Private Trucks.***

(A) Motor vehicles used exclusively for the movement of farm products for the grower from the point of production to the first market, or operated as farm trucks, or as a logging and lumbering truck as defined in subdivision (a)(3)(C), or as the owner's private conveyance, transporting only tangible personal property belonging to the owner or a guest occupant, shall be classified by the commissioner and registered with the department as freight motor vehicles at the following taxes in lieu of those set out in subdivision (a)(1):

Class 1	*$ 39.53*
Class 2	*56.30*
Class 3	*128.90*
Class 4	*160.80*
Class 5	*207.00*
Class 6	*237.80*
Class 7	*262.00*
Class 8	*317.00*
Class 9	*363.20*
Class 10	*420.40*
Class 11	*561.20*

(B) There shall not be eligible for registration under this exception to the general licensing provisions any motor vehicles operated commercially as part of a business venture or for delivery service to customers by dairies, hatcheries, pharmacies, grocers, service stations, garages and the like; however, farm trucks used by egg farmers to transport eggs from the point of production to the first market shall be registered with the department as freight motor vehicles at taxes in subdivision (a)(3)(A) in lieu of those set out in subdivision (a)(1);

(C) For purposes of this section, "logging and lumbering trucks" are those trucks used for hauling logs, pulpwood, bark, wood chips, and wood dust from the woods to the mill or for hauling lumber, bark, wood chips, and wood dust from the mill to a loading or storage place;

(D) Truck tractors used exclusively to pull lowboy-type trailers on which are transported machinery that is used only for agricultural purposes, such as, but not limited to, terracing, clearing land, and building ponds, levees, ditches and/or canals; and trucks on which are mounted lime or fertilizer spreaders may register in this category under the appropriate weight class. The use of the highways by these limited use motor vehicles registered in this class is restricted to that which is incidental to the movement of the designated machinery from farm to farm and any volume and unpackaged lime and fertilizer from the distribution point to the farm;

(4) ***Miscellaneous Classes.*** *Well drillers as defined in* § 55-1-117 ..... *$ 55.20;*

(5) ***Freight trailers, semitrailers and pole trailers.***

(A) Freight trailers, semitrailers, and pole trailers used primarily for hauling freight and trailers used in the furtherance of a business, any trailer not required to be registered but which the owner desires to be registered, shall be registered and, in addition to the tax herein prescribed for trucks and truck tractors, there shall be imposed on vehicles so classified a registration tax of ninety-five dollars ($95.00). The certificate of registration and registration plate issued for a specific vehicle shall

continue valid for the duration of the owner's interest in that vehicle;

(B)(i) The provisions of § 55-4-101 to the contrary notwithstanding, no registration for trailers, semitrailers or pole trailers shall be transferred for any reason and a new registration shall be required for additional trailers;

(ii) The commissioner may, in his discretion, require an owner of a freight trailer, semitrailer, or pole trailer registered in this state pursuant to subdivision (a)(5)(A) to provide written confirmation to the department as to whether or not the trailer has been destroyed, abandoned, sold, or otherwise transferred to another owner and still bears the permanent registration plate originally issued to the trailer;

(iii) If such owner provides written confirmation to the department that the trailer has been destroyed, abandoned, sold, or otherwise transferred to another owner and the trailer has not been properly registered to the new owner, the commissioner shall immediately terminate the registration and plate originally assigned to the trailer under the name of the owner of record;

(iv) If such owner fails to provide written confirmation within ninety (90) days of the date of the commissioner's request, the commissioner may, in the commissioner's discretion, terminate the registration and plate originally assigned to the trailer under the name of the owner of record;

(v) Whenever the title to a freight trailer, semitrailer, or pole trailer registered in this state pursuant to subdivision (a)(5)(A) is destroyed, abandoned, sold, or otherwise transferred to another owner, the registration of the trailer shall expire. If the trailer is sold or otherwise transferred to a new owner, the new owner shall obtain a new registration of the trailer. Notwithstanding any law to the contrary, the department may issue to such new owner a new or existing registration plate bearing the same alpha-numerical characters as were affixed to such trailer at the time of transfer to the new owner; and

(C) Implements designed for carrying and distributing fertilizer shall not be subject to the licensing requirement imposed on trailers, and when used for the transportation of fertilizer between a plant and a farm the gross weight of the implement and its cargo shall not be considered in determining the licensing requirement for the prime mover;

(6) ***Special Zone Licenses.***

(A) ***Class 1.*** *It shall be permissible for any owner or operator of a freight motor vehicle that is to be operated exclusively within a zone limited to the streets of a designated municipal corporation and to the highways for a distance not to exceed fifteen (15) air miles beyond the limits of the municipality, to apply for and be issued a special municipal zone license. In counties having a metropolitan form of government, the county line shall be the limit for the operation of motor vehicles registered under this special license. The annual fee for this special license shall be four hundred ninety-three dollars ($493) for freight motor vehicles with a declared maximum gross weight not exceeding seventy-four thousand pounds (74,000 lbs.), and an annual fee of five hundred seventy dollars ($570) for freight motor vehicles with a declared maximum gross weight not exceeding eighty thousand pounds (80,000 lbs.). The annual fee for this special license for ready-mix concrete trucks shall be three hundred sixty-one dollars ($361); and*

(B) ***Class 2.*** *It shall be permissible for any owner or operator having a freight motor vehicle that is to be operated exclusively in a given county, and the counties that adjoin it, to apply for and be issued a special county zone license. The owner must, upon application for this special license, declare the base county and attest that the vehicle is to be operated exclusively in the base county and such other counties as may adjoin it. Movements from the base county to one (1) adjoining are restricted to the delivery of freight to its final destination, or to the place of consignment, or for the purpose of bringing freight from its place of origin to a point in the base county. The annual fee for this special license shall be six hundred thirty-six dollars ($636) for freight motor vehicles with a declared maximum gross weight not exceeding seventy-four thousand pounds (74,000 lbs.), and an annual fee of seven hundred thirty-five dollars ($735) for freight motor vehicles with a declared maximum gross weight not exceeding eighty thousand pounds (80,000 lbs.). The annual fee for this special license for ready-mix concrete trucks shall be four hundred sixty dollars ($460); and*

(7)(A) Registration being a condition precedent to vehicular use in this state, it is the intent of this section that the owner or operator of a freight motor vehicle shall pay a registration tax sufficient to allow for its operation under a declared maximum gross weight limited only by the following scale of maximum weights for its axle configuration:

(i) For any single axle, the maximum allowable weight shall be twenty thousand pounds (20,000 lbs.); and

(ii) For any tandem axle group, the maximum allowable weight shall be thirty-four thousand pounds (34,000 lbs.);

(B) When a vehicle on which the tax has not been paid is found in operation, the owner or operator shall be required to register the vehicle and, in addition to the statutory registration taxes, shall be subject to a tax assessed at the rate of ten cents (10¢) per pound on each pound of weight for which no Tennessee tax has been previously paid;

(C) When a vehicle registered in some class adequate for its lawful operational weight is found in operation at a weight exceeding the limit of the license, for which the tax has been paid, the operator shall be assessed an additional tax at the rate of ten cents (10¢) per pound on each pound of weight for which no Tennessee tax has been previously paid;

(D) Nonresidents operating vehicles under the provisions of a reciprocity agreement shall likewise be subject to the additional taxes provided under this subdivision (a)(7) when their vehicles are operated in excess of the licensed weight, or regardless of the licensed weight, in excess of eighty thousand pounds (80,000 lbs.);

(E) When the operator of any freight motor vehicle shall fail to load it or have it loaded in a manner and at weights conforming to the axle weight limitations set forth in this subdivision (a)(7), there shall be imposed a tax assessed on the basis of ten cents (10¢) per pound on each pound of weight that exceeds the limit on an axle or group of axles. Except, with respect to vehicles being used to transport the products identified under § 55-7-203(b)(6), liability for the tax imposed by this subdivision (a)(7)(E) shall only begin to run commencing with the first pound that exceeds the total weight allowable for the number and type of its axles. On an overweight poundage of the axle weight limit imposed for the classification in which a freight motor vehicle is registered, the tax per pound of the overage shall be

ten cents (10¢) per pound;

(F) When any freight motor vehicle is found in operation with a gross weight in excess of the road and bridge weights posted by the commissioner of transportation pursuant to § 55-7-205, or weight that exceeds the maximum allowable under an overweight permit issued by the commissioner, the operator of a vehicle shall be assessed a tax at the rate of ten cents (10¢) per pound for each pound of excess weight;

(G)(i) The provisions of this subdivision (a)(7) respecting licensing and the assessment of additional taxes for excessive weights shall apply with respect to vehicles registered under the allowance for "Special Zone Licenses";

(ii) For the first offense, any owner of a freight motor vehicle that is operated in violation of the territorial limitation of a special zone license issued pursuant to this subdivision (a)(7) shall be subject to assessment of a penalty by the department, which shall be twenty-five percent (25%) of the special zone license fee for the full year with no credit or rebate for any portion of the year in which a license is unused. All funds collected pursuant to this subdivision (a)(7)(G)(ii) shall be earmarked for the enforcement of these zone license provisions;

(iii) On a second offense, occurring within the same licensing year as the first offense, in addition to the penalty specified in subdivision (a)(7)(G)(ii), any licensee whose truck is found to be in violation of the territorial limitation placed on the license shall be required to immediately reregister it under an applicable general licensing provision for a period of one (1) year following the date on which the second offense occurred;

(H) All taxes imposed by this section shall be a part of the registration taxes or fees and shall be payable to the department. Upon becoming delinquent, these taxes or fees shall be subject to collection by the commissioner of revenue under title 67, chapter 1, part 14. The assessment of these taxes shall in no wise be restricted through the assessment of other taxes for some prior violation or any other condition relating to the privilege of operating the vehicle over the streets and highways of this state;

(I) A motor vehicle otherwise properly registered in its class pursuant to this section shall not be in violation of the maximum gross weight for its class, including vehicle and load, if the vehicle is found to have exceeded the maximum gross weight for its class solely by the occasional towing of a fork lift or tow motor where no part of the weight of such equipment rests on the towing vehicle; and the weight of the equipment shall not be considered in determining whether the motor vehicle has exceeded its maximum gross weight, including the load thereon, and in determining the licensing requirements for the motor vehicle in such circumstances;

(J)(i) When any logging truck, as defined in § 55-7-203, is found in operation with a gross weight in excess of the weights established by law, the operation of the vehicle shall not be assessed a tax if the vehicle's excess weight is less than ten percent (10%) of the vehicle's gross weight. If the weight of the vehicle is greater than ten percent (10%) in excess of the maximum applicable weight, the tax of ten cents (10¢) per pound shall be imposed on any poundage over the maximum applicable weight;

(ii) If the commissioner of transportation is formally notified by an appropriate federal officer that as a result of any provision of this

subdivision (a)(7)(J) that Tennessee will lose federal funds, then such provision shall be void and inoperative. A loss of federal funds as a result of any provision of this subdivision (a)(7)(J) shall render the provision void and inoperative;

(K) When a freight motor vehicle is registered under subdivision (a)(3)(A), as a combined farm and limited private use truck and being operated commercially or as a commercial vehicle and is found in operation in violation of subdivision (a)(3)(A), the owner shall be subject to assessment of a penalty by the department, which shall be twenty-five percent (25%) of the commercial license fee for the full year with no credit or rebate for any portion of the year in which a license is unused;

(L) The penalties provided for in subdivision (a)(7), shall be waived upon submission within thirty (30) days to the commissioner, of proof that the vehicle has been properly registered in the appropriate classification and payment of a two hundred dollar ($200) administrative fee, and no citation shall be issued for a violation of subdivision (a)(7)(C), (a)(7)(E), (a)(7)(F), or (a)(7)(J).

(b) There shall be added to all the vehicle registration taxes imposed by this section a two and one-half percent (2.5%) increase, rounding to the nearest fifty cents (50¢), which shall be designated as the department of safety's safety inspection fee pursuant to § 65-15-112. This safety inspection fee shall not apply to a vehicle registering pursuant to subdivision (a)(3). This safety inspection fee shall be collected as a part of the vehicle registration taxes required by this section, and shall not be used for any purpose other than to fund the motor vehicle safety enforcement activities of the department of safety.

55-4-117. Registration fees for dealers, manufacturers and transporters — Dealer plates for use on trucks — Lost plates.

(a)(1) Any manufacturer, transporter or dealer may make application to the department for a certificate containing a general distinguishing number and for one (1) or more special plates, as are provided for in § 55-4-226. The fee for the master plate shall be at the rate of twice the amount of the annual registration fee for a passenger motor vehicle as prescribed in § 55-4-111, and the charge for additional plates shall be at a rate equal in amount to the annual fee for passenger motor vehicles.

(2) Each dealership shall be limited to two hundred twenty-five (225) dealer plates. The fee to replace lost plates shall be the same rate as provided for obtaining the plate initially issued. The fee to replace a mutilated or defaced plate shall be the same as the fee for replacing any other plate; provided, that the mutilated or defaced plate is surrendered to the clerk.

(b)(1) Any dealer engaged in the sale of trucks at retail may make application to the department for a certificate for special dealer plates for use on trucks being operated for demonstration purposes or loaned temporarily to a prospective customer to be tested under load conditions over the highways of the state. The fee for the registration plates shall be at the rate of three hundred fifty-seven dollars and fifty cents ($357.50) per set for the licensing year. No dealer shall purchase more than seven (7) sets of the special plates in any one (1) year. The fee for a plate to replace any lost plate authorized in this section shall be the same as provided for the plate initially issued, and the replacement fee for a mutilated or defaced plate shall be one dollar

($1.00); provided, that this mutilated or defaced plate is surrendered to the clerk. These special registration plates shall contain some wording, marking or coloring so as to be readily distinguishable from all other registration plates issued by the state, and shall not be required to bear county numerical prefixes.

(2) No truck dealer shall permit special registration plates to be used by any person except one who is a prospective purchaser of the truck or an employee of the dealer. A truck dealer may authorize by contract a nonprofit organization whose sole purpose is to distribute food to the needy to use one (1) of its trucks with special registration plates to transport food from the location of a wholesale grocery distributor to the nonprofit organization's own place of operation. While the purchaser in using the truck for a reasonable time may operate the truck in the normal course of business, it is unlawful for the dealer to charge, receive or collect any rental fee or other consideration from or on behalf of the prospective customer for the use of the truck for the time it shall be operated with the special registration plates. Any violation of this subdivision (b)(2) constitutes grounds for the revocation of all the special registration plates issued to or owned by the dealer.

(3) The county clerk shall be entitled to a fee of two dollars ($2.00) for issuing each plate; provided, that the clerk shall only be entitled to receive a maximum of ten dollars ($10.00) a day from any one (1) dealer.

55-4-119. Transfer by operation of law.

(a) Upon any transfer of title or interest of an owner in or to a registered vehicle to another otherwise than by voluntary transfer, the new owner may secure a new registration and certificate of title upon the payment of all proper fees by any one (1) of the following methods:

(1) By proper application and upon presentation of either the last certificate of title, or a bill of sale properly endorsed by the former owner and duly assigned to the new owner, as provided in §§ 55-3-118 and 55-4-101;

(2) Where the motor vehicle has been advertised and sold under any conditional sales contract, or other lien which shall be noted on the then outstanding certificate of title without the necessity of judicial proceedings, a new certificate of title and registration may be obtained by the new owner upon an application therefor regularly filed, accompanied by an affidavit made by the lienor, stating that the motor vehicle has been repossessed and sold under and by virtue of the terms of the lien and the law applicable thereto, together with the outstanding certificate of title, if available, and any other additional information as may be reasonably required by the commissioner;

(3) Where the motor vehicle has been sold under and by virtue of an order of any court, or by virtue of an execution duly issued by any court or its clerk, the new owner will be entitled to a certificate of title and registration thereof upon an application therefor, being duly filed together with a certified copy of the court order or execution, showing the return thereon, an affidavit of the person who shall actually sell the motor vehicle by virtue of the court order or execution that the sale has been conducted in a legal and proper manner and in accordance with the terms of the lien contract, and if sold under a lien, noted on the certificate of title, together with the certificate of title, if available, and such other information as may be reasonably required

by the commissioner; or

(4) By any other means as may be provided for by the reasonable rules and regulations of the commissioner.

(b) No title transferred by virtue of any of the means set out in subsection (a) shall pass better or greater title to the purchaser than could have been conveyed and assigned by the certificated title holder when joined in the transfer or assignment by the lienor at whose instance the motor vehicle is being sold, if being sold for the satisfaction of a lien noted on the certificate of title, to an innocent purchaser for value.

(c) Where the holder or owner of a conditional sales contract has possession of the then outstanding certificate of title and becomes the purchaser of the motor vehicle at such sale and holds the vehicle for resale and operates the same under special plates as may be issued under § 55-4-226, to dealers for purposes of demonstrating or selling the vehicle, the purchaser at the sale shall not be required to obtain a new registration of the vehicle or be required to obtain a new certificate of title, but upon transferring interest or title to another person shall execute an affidavit stating that the motor vehicle has been repossessed and sold under and by virtue of the terms of the conditional sales contract and the law applicable to the conditional sales contract and that this person became the purchaser of the motor vehicle, and the affidavit and the then outstanding certificate of title shall be delivered to the person as the new owner, and the new owner may secure a new registration and certificate of title.

(d) Where no certificate of title has been issued by the state or by any other state in connection with any such motor vehicle as may be sold or otherwise disposed of as provided in subdivision (a)(2), and where the lienor is a financial institution authorized to do business in the state and subject to supervision by the commissioner of commerce and insurance, the commissioner of financial institutions, or the comptroller of the currency of the United States, then the commissioner shall accept, in lieu of a certificate of title and in lieu of the affidavit specified in subdivision (a)(2), the following:

(1) An affidavit made by the lienor setting forth:

(A) The name and last known address of the former owner;

(B) That no certificate of title has been issued in connection with the motor vehicle, to the best of lienor's information and belief;

(C) That the lien instrument held by lienor evidences a valid and enforceable lien in the lienor's favor;

(D) That the motor vehicle was repossessed and sold under and by virtue of the terms of the lien and the law applicable thereto;

(E) The balance owing which is secured by the lien; and

(F) The exhibit of a true copy of the lien instrument, together with any assignment thereof if applicable; and

(2) A bond executed by the lienor, without sureties, in a penal sum equal to the value of the motor vehicle, payable to the state of Tennessee, and conditioned to hold the state harmless from any liability or damages which might arise in connection with the issuance of a new registration and certificate of title. For purposes of this subdivision (d)(2), it shall be presumed, in the absence of a contrary showing, that the value of the motor vehicle is equal to the balance owing which is secured by the lien instrument. Where the affidavit and bond specified in this subdivision (d)(2) are filed by a lienor, that lienor shall pay to the department, in addition to all other fees which may be required, a fee of five dollars ($5.00).

55-4-137. Exemption from registration fee for certain veteran or active-duty service members.

Notwithstanding § 55-4-237, § 55-4-239, or any other provision of this chapter, a veteran or active-duty service member of the armed services is exempt from the regular registration fee prescribed under § 55-4-111 and any fee provided for in § 55-4-203(c)(1) for a motor vehicle sold, given, or donated to the veteran or service member if:

(1) The veteran or service member has a service-connected disability as described in 38 U.S.C. § 3901;

(2) The veteran or service member receives a grant from the United States department of veterans affairs, pursuant to 38 U.S.C. §§ 3901-3904; and

(3) The grant is used to provide or assist in providing the vehicle to the veteran or service member.

55-4-138. Evidence of vehicle registration in electronic format — Acceptable electronic formats.

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.

55-4-139. Designation of owner or lessee of motor vehicle as deaf or hard of hearing.

(a) At the time of initial application for the registration of a motor vehicle under this part, or upon renewal, an owner or lessee of a motor vehicle who is deaf or hard of hearing may request that the department include such designation in the Tennessee Vehicle Title and Registration System (VTRS) database. The registrant's request must be accompanied by a physician's statement supporting the registrant's request for a deaf or hard of hearing designation. Upon receipt of such a request accompanied by a valid physician's statement, the department shall cause the registrant's deaf or hard of hearing status to be entered into the VTRS database, and ensure such designation is associated with the applicant's motor vehicle and registration.

(b) Information submitted to the department under this section shall be supplied to law enforcement to assist in identifying the operator of the vehicle as possibly being deaf or hard of hearing. Information collected pursuant to this section shall only be available to law enforcement for the purpose of ensuring safe and efficient interactions between law enforcement and persons who are deaf or hard of hearing, and shall not be used for any other purpose.

(c) All law enforcement officers charged with the enforcement of this title and emergency call takers and public safety dispatchers, as described in § 7-86-205, shall receive instruction in the identification of deaf or hard of hearing designation included in the VTRS database as provided for in this

section.

(d) The commissioner is authorized to adopt policies and procedures as necessary to effectuate the purposes of this section.

55-4-140. Exemption for member of volunteer fire department or volunteer local rescue squad.

(a) Any owner or lessee of a motor vehicle who is a resident of this state, is an active member of a volunteer fire department, and has at least one (1) year of service shall be exempt, at the time of renewal, from the regular registration fee imposed pursuant to § 55-4-111, for only one (1) vehicle owned or used by the firefighter, upon the certification or sworn statement from the chief of the fire department to which the person is attached confirming the applicant is an active volunteer member, and upon compliance with state motor vehicle registration and licensing laws. In addition to the exemption provided by this subsection (a), the legislative body of a county is authorized to waive the motor vehicle tax for motor vehicles receiving an exemption under this subsection (a) from the registration fee if the waiver is approved in the same manner as the adoption of the motor vehicle tax under § 5-8-102.

(b) Any owner or lessee of a motor vehicle who is a resident of this state, is an active member of a volunteer local rescue squad, and has at least one (1) year of service shall be exempt, at the time of renewal, from the regular registration fee imposed pursuant to § 55-4-111, for only one (1) vehicle owned or used by the member, upon certification or sworn statement from the captain of the local rescue squad to which the person is attached confirming the applicant is an active volunteer member, and upon compliance with state motor vehicle registration and licensing laws. In addition to the exemption provided by this subsection (b), the legislative body of a county is authorized to waive the motor vehicle tax for motor vehicles receiving an exemption under this subsection (b) from the registration fee if the waiver is approved in the same manner as the adoption of the motor vehicle tax under § 5-8-102.

55-4-201. Part definitions.

As used in this part:

(1) "Collegiate plate" or "collegiate license plate" means the class of cultural motor vehicle registration plates enumerated in § 55-4-203(c)(5)(B), which features on each individual plate a special reference to or identification or information on:

(A) A two-year or four-year college or university located within this state; or

(B) A four-year college or university located outside this state;

(2)(A) "Cultural plate" or "cultural license plate" means:

(i) A special or cultural motor vehicle registration plate authorized by statute prior to July 1, 1998, and enumerated in § 55-4-203(c)(5); or

(ii) An honorary motor vehicle registration plate authorized by statute on or after July 1, 1998, which statute does not specifically earmark the funds produced from the sale of the plate;

(B) "Cultural plate" or "cultural license plate" includes collegiate plates and personalized plates unless those plates are specifically excluded from this definition by statute;

(3) "Memorial plate" or "memorial license plate" means those motor vehicle registration plates, as enumerated in § 55-4-203(c)(4) and defined in § 55-4-250, that are issued free of charge, including the regular registration fee, pursuant to § 55-4-204(b);

(4) "New specialty earmarked plate" or "new specialty earmarked license plate" means a motor vehicle registration plate authorized by statute on or after July 1, 1998, which statute earmarks the funds produced from the sale of that plate to be allocated to a specific nonprofit organization or state agency or fund to fulfill a specific purpose or to accomplish a specific goal;

(5) "Off-highway vehicle plate" or "off-highway vehicle license plate" means those motor vehicle registration plates, as enumerated in § 55-4-203(a) and described in chapter 4, part 7 of this title, that are issued to Class I and Class II off-highway vehicles as defined in § 55-8-101;

(6) "Personalized plate" or "personalized license plate" means the class of cultural motor vehicle registration plates that features on each individual plate not less than three (3) nor more than seven (7) identifying numbers, letters, positions or a combination thereof for a passenger motor vehicle, recreational vehicle or truck of one-half or three-quarter-ton rating or, if authorized, not less than three (3) nor more than six (6) identifying numbers, letters, positions or a combination thereof for a motorcycle, as requested by the owner or lessee of the vehicle to which that plate is assigned;

(7) "Personalized trailer plate" or "personalized trailer license plate" means a motor vehicle registration plate that is permitted, but not required, to be registered to a trailer or semitrailer that features on each individual plate not less than three (3) nor more than seven (7) identifying numbers, letters, positions or a combination of numbers, letters or positions for a trailer or semitrailer, as requested by the owner or lessee of the trailer or semitrailer to which the plate is assigned;

(8) "Special purpose plate" or "special purpose license plate" means all other motor vehicle registration plates issued pursuant to this part, including antique motor vehicle, dealer, disabled, emergency, firefighter pursuant to § 55-4-224, general assembly, government service, judiciary, national guard, OEM headquarters company, sheriff, special event, United States house of representatives, United States judge and United States senate plates; and

(9) "Specialty earmarked plate" or "specialty earmarked license plate" means a motor vehicle registration plate authorized by statute prior to July 1, 1998, and enumerated in § 55-4-203(c)(6), which statute earmarks the funds produced from the sale of that plate to be allocated to a specific organization, state agency or fund, or other entity to fulfill a specific purpose or to accomplish a specific goal.

55-4-202. Issuance — Applicability of part — Requirements — Plates deemed obsolete due to inactivity.

(a)(1) All cultural, specialty earmarked and new specialty earmarked motor vehicle registration plates, memorial motor vehicle registration plates and special purpose motor vehicle registration plates now, or in the future, shall be issued and renewed pursuant to this part. No plate, other than those issued under part 1 of this chapter, shall be issued or renewed unless authorized in this part.

(2) For the purposes of this part and part 3 of this chapter, "this part" means this part and part 3 of this chapter.

(b) All plates issued pursuant to this part shall be issued and renewed subject to the following:

(1) Payment of the applicable registration fee, except as specifically provided otherwise by § 55-4-204 or any other applicable provision of this part;

(2) An additional fee of thirty-five dollars ($35.00) to be paid by the applicant upon issuance and renewal, except as specifically provided otherwise by § 55-4-204 or any other applicable provision of this part;

(3)(A) A minimum order of one hundred (100) plates for collegiate plates as defined by § 55-4-201. Collegiate plates for motorcycles, as authorized by § 55-4-210(c), shall be subject to a minimum order of one hundred (100) plates for each classification of collegiate plates;

(B) A minimum order of at least five hundred (500) plates for all other cultural, specialty earmarked and new specialty earmarked plates. Personalized plates for motorcycles, as authorized by § 55-4-210(c), shall be subject to a minimum order of five hundred (500) plates;

(4) A design which shall be approved by the commissioner; and

(5) A handling fee of one dollar ($1.00) payable to the county clerk upon issuance or renewal of any cultural, specialty earmarked, or new specialty earmarked license plate, except plates exempted from payment of fees under § 55-4-204 or any other applicable provision of this part.

(c)(1) Subsection (b) shall apply equally to the renewal of any plate issued pursuant to this part; provided, that any plate that fails to meet the minimum requirements of subdivision (b)(3) by December 31, 1999, or for two (2) successive renewal periods thereafter shall not be reissued or renewed, and the commissioner shall notify the Tennessee code commission that the section of Tennessee Code Annotated authorizing the issuance of the plate is, on the basis of inactivity, to be deemed obsolete and invalid.

(2) Any cultural or new specialty earmarked plate authorized by statute on or after July 1, 1998, shall be subject to the minimum issuance requirements of subdivision (b)(3).

(3) Any plate authorized by this part that qualifies for initial issuance on or after July 1, 1998, shall be subject to the minimum issuance requirements of subdivision (b)(3).

(d) Any plate authorized by this part that has not qualified for initial issuance by December 31, 1999, shall not be issued and the commissioner shall notify the Tennessee code commission that the section of Tennessee Code Annotated authorizing the issuance of the plate is, on the basis of inactivity, to be deemed obsolete and invalid.

(e) Notwithstanding subsection (d), any plate authorized by statute on or after January 1, 1999, that fails to meet the minimum issuance requirements of subdivision (b)(3)(B) within one (1) year of the effective date of the act authorizing the plate shall not be issued, and the commissioner shall notify the Tennessee code commission that the section of Tennessee Code Annotated authorizing the issuance of the plate is, on the basis of inactivity, to be deemed obsolete and invalid.

(f) [Deleted by 2017 amendment.]

(g) Subdivision (b)(3) and subsections (c), (d), (e), (h), and (*l*) shall not apply to the following plates issued pursuant to this part:

(1) Antique motor vehicle;
(2) Dealer;
(3) Disabled;
(4) Emergency;
(5) Firefighter, as provided for in § 55-4-224;
(6) General assembly;
(7) Government service;
(8) Honorary consular;
(9) Judiciary;
(10) Legislator Emeritus;
(11) Memorial;
(12) Metropolitan council;
(13) Military;
(14) National Guard;
(15) Sheriff;
(16) United States house of representatives;
(17) United States judge; and
(18) United States senate.

(h)(1) Notwithstanding this part to the contrary, any cultural or new specialty earmarked license plate authorized by statute on or after July 1, 2002, shall be subject to a minimum order of at least one thousand (1,000) plates prior to initial issuance. This subdivision (h)(1) shall apply equally to the renewal of any cultural or new specialty earmarked plate initially issued on or after July 1, 2002. Any such plate that does not meet the minimum order requirements of this subdivision (h)(1) within one (1) year of the effective date of the act authorizing that plate, or does not meet the renewal requirements for any two (2) successive renewal periods thereafter, shall not be issued, reissued or renewed and shall be deemed obsolete and invalid. The commissioner shall annually notify the executive secretary of the Tennessee code commission of the sections of the code authorizing the issuance of plates deemed obsolete and invalid pursuant to this subdivision (h)(1).

(2) Subdivision (h)(1) shall not apply to collegiate plates otherwise administered pursuant to this part; provided, that on and after July 1, 2002, collegiate plates for four-year colleges or universities located outside this state shall be subject to a minimum order of at least one thousand (1,000) plates prior to initial issuance by the department. This subdivision (h)(2) shall apply equally to the renewal of any collegiate plates for four-year colleges or universities located outside this state initially issued by the department on or after July 1, 2002. Any such plate that does not meet the minimum order requirements of this subdivision (h)(2) or does not meet the renewal requirements for any two (2) successive renewal periods, shall not be administratively issued, reissued or renewed by the department and shall be deemed obsolete and invalid.

(3)(A) Notwithstanding any provision of this part to the contrary, between July 1, 2002, and August 31, 2002, any cultural license plate authorized by § 55-4-240 shall be subject to a minimum order of at least two hundred fifty (250) plates prior to initial issuance. This subdivision (h)(3)(A) shall apply equally to the renewal of any cultural license plate authorized by § 55-4-240 and initially issued between July 1, 2002, and August 31, 2002. Any such plate that does not meet the minimum order requirements of this subdivision (h)(3)(A) or does not meet the renewal requirements for

any two (2) successive renewal periods, shall not be administratively issued, reissued or renewed by the department and shall be deemed obsolete and invalid.

(B) On or after September 1, 2002, any cultural license plate authorized by § 55-4-240 shall be subject to a minimum order of at least one thousand (1,000) plates prior to initial issuance. This subdivision (h)(3)(B) shall apply equally to the renewal of any cultural license plate authorized by § 55-4-240 and initially issued on or after September 1, 2002. Any such plate that does not meet the minimum order requirements of this subdivision (h)(3)(B) or does not meet the renewal requirements for any two (2) successive renewal periods, shall not be administratively issued, reissued or renewed by the department and shall be deemed obsolete and invalid.

(i) All funds produced from the sale or renewal of cultural, specialty earmarked and new specialty earmarked license plates shall be used exclusively in Tennessee to support departments, agencies, charities, programs and other activities impacting Tennessee, as authorized pursuant to this part.

(j)(1) Any new specialty earmarked license plate authorized by statute on behalf of a nonprofit organization shall be subject to certification of the organization's nonprofit status by the secretary of state within ninety (90) days of the effective date of the act authorizing the plate prior to initial issuance.

(2) Any specialty earmarked license plate authorized by statute and initially issued prior to July 1, 1998, on behalf of a nonprofit organization, and any new specialty earmarked license plate authorized by statute and initially issued on or after July 1, 1998, and prior to July 1, 2008, on behalf of a nonprofit organization, shall be subject to certification of the organization's nonprofit status by the secretary of state.

(3) Any new specialty earmarked license plate or specialty earmarked license plate authorized on behalf of a nonprofit organization that is not certified as a registered nonprofit organization in good standing with the state by the secretary of state shall not be issued or renewed and shall be deemed obsolete and invalid.

(k) Any nonprofit organization receiving proceeds from the sale of a specialty earmarked license plate or new specialty earmarked license plate, shall be subject to the following requirements:

(1) The nonprofit organization shall meet and maintain all statutory requirements and internal revenue service regulations for nonprofit corporations;

(2) Each nonprofit organization shall maintain its nonprofit status in good standing with the secretary of state;

(3) By September 30 each year, all nonprofit organizations receiving proceeds from the sale or renewal of a specialty earmarked license plate or new specialty earmarked license plate shall submit an annual accounting of all such funds received from July 1 to June 30 of the preceding state fiscal year to the comptroller of the treasury. If a nonprofit organization fails to comply with the annual accounting requirement, then the commissioner of the department or agency responsible for paying the specialty earmarked license plate or new specialty earmarked license plate proceeds shall, at the request of the comptroller of the treasury, hold the proceeds in reserve until the nonprofit organization submits its annual accounting and the comptrol-

ler notifies the department or agency to release the funds. Any costs associated with holding the plate proceeds shall be deducted from the reserve fund as an administration fee. The comptroller of the treasury may audit any nonprofit organization receiving funds from a specialty earmarked license plate or new specialty earmarked license plate to ensure that the funds are being used in accordance with statutory authority for the plate, and the cost of the audit shall be charged to the nonprofit organization; and

(4) A nonprofit organization shall return any proceeds received from a specialty earmarked license plate or new specialty earmarked license plate that a comptroller of the treasury's audit finds have been used in violation of statutory authority. The attorney general and reporter is authorized to institute proceedings, as defined in § 48-51-201, under the Tennessee Nonprofit Corporation Act, compiled in title 48, chapters 51-68, to recover the proceeds.

(*l*)(1) Notwithstanding this part to the contrary, any cultural or new specialty earmarked license plate authorized by statute on or after July 1, 2013, shall be subject to a minimum order of at least one thousand (1,000) plates prior to initial issuance. Any cultural or new specialty earmarked license plate authorized by statute shall be subject to a minimum order of at least eight hundred (800) plates for the renewal of such cultural or new specialty earmarked plates. Any such plate that does not meet the minimum order requirements of this subdivision (*l*)(1) within one (1) year of the effective date of the act authorizing that plate, or does not meet the renewal requirements for any two (2) successive renewal periods thereafter, shall not be issued, reissued, or renewed and shall be deemed obsolete and invalid. The commissioner shall annually notify the executive secretary of the Tennessee code commission of the sections of the code authorizing the issuance of plates deemed obsolete and invalid pursuant to this subdivision (*l*)(1).

(2) Subdivision (*l*)(1) shall not apply to collegiate plates otherwise administered pursuant to this part; provided, that on and after July 1, 2013, collegiate plates for four-year colleges or universities located outside this state shall be subject to a minimum order of at least one thousand (1,000) plates prior to initial issuance by the department. The renewal of any collegiate plates for four-year colleges or universities located outside Tennessee issued by the department on or after July 1, 2013, shall be subject to a minimum order of at least eight hundred (800) plates. Any such plate that does not meet the minimum order requirements of this subdivision (*l*)(2) or does not meet the renewal requirements for any two (2) successive renewal periods, shall not be administratively issued, reissued, or renewed by the department and shall be deemed obsolete and invalid.

55-4-203. Issuance — Category — Supplemental registration — Eligibility.

(a) All registration plates issued under this part shall be issued in one (1) of the following categories:

(1) Antique motor vehicle;

(2) Cultural;

(3) Dealer;

(4) Disabled;

(5) Emergency;
(6) Firefighter;
(7) General assembly;
(8) Government service;
(9) Judiciary;
(10) Legislator Emeritus;
(11) Memorial;
(12) National Guard;
(13) New specialty earmarked;
(14) OEM headquarters company;
(15) Off-highway vehicles:
(A) Class I off-highway vehicles; and
(B) Class II off-highway vehicles;
(16) Sheriff;
(17) Specialty earmarked;
(18) United States house of representatives;
(19) United States judge; and
(20) United States senate.

(b)(1) Registration plates currently provided under the "dealer," "government service," "disabled," and "national guard" categories shall be issued in design configurations and colors which distinguish the plates from those of other categories, and in a manner which would avoid confusion with any other registration plates.

(2) Registration plates issued in any other category shall be issued in a design configuration distinctive to that category and determined by the commissioner, and shall bear at the top of the plate the word "Tennessee" or "Tenn" and at the bottom the name of the category. In addition, the plates in each category may bear identifying letter prefixes to distinguish the group within the category, and shall bear identifying number suffixes to identify the individual registrant.

(c) The groups within each category having multiple plates shall be as follows:

(1) Emergency:
(A) Amateur radio;
(B) Auxiliary police;
(C) Civil air patrol;
(D) Civil defense;
(E) Rescue squad;
(F) Emergency services squad, including, but not limited to, emergency medical technicians and paramedics;
(G) Police officer;
(H) Trauma physicians;
(I) Trauma nurses;
(J) On-call surgical personnel;
(K) Constables;
(L) Tennessee state guard; and
(M) United States coast guard auxiliary;
(2) Judiciary:
(A) Supreme court;
(B) Court of appeals;
(C) Court of criminal appeals;

(D) Chancery court;
(E) Circuit court;
(F) Probate court;
(G) Juvenile court;
(H) General sessions court;
(I) Retired judges of courts, not-of-record;
(J) Municipal court judges; and
(K) Magistrates;
(3) National Guard:
(A) Enlisted;
(B) Honorably discharged members;
(C) Officers; and
(D) Retirees;
(4) Memorial:
(A) Air Force Cross recipient;
(B) Air Medal (Valor) recipients;
(C) Bronze Star (Valor) recipients;
(D) Disabled veteran;
(E) Distinguished Flying Cross recipients;
(F) Distinguished Service Cross recipient;
(G) Former prisoner of war;
(H) Gold star family;
(I) Holder of the Purple Heart;
(J) Medal of honor recipient;
(K) Navy Cross recipient; and
(L) Silver Star recipients;
(5) Cultural:
(A) Arts, as provided for in § 55-4-217 and § 55-4-240;
(B) Collegiate, as defined in § 55-4-201:
(i) Bryan College;
(ii) Cumberland University;
(iii) Penn State University;
(iv) University of Arkansas;
(v) University of Florida;
(vi) University of Mississippi;
(vii) All collegiate plates issued as cultural motor vehicle registration plates prior to July 1, 1998; and
(viii) All collegiate plates administratively issued by the department on or after July 1, 1998, pursuant to § 55-4-210;
(C) Honorary consular;
(D) Metropolitan council;
(E) Military:
(i) 5th Special Forces Group (Airborne);
(ii) Air Medal (Meritorious) recipients;
(iii) Blue star family;
(iv) Bronze Star (Meritorious) recipients;
(v) Combat veterans;
(vi) "Enemy Evadees" as certified by the department of veterans services;
(vii) Honorably discharged veterans of the United States Armed Forces;

(viii) Marine Corps League;
(ix) Paratrooper;
(x) Pearl Harbor survivors;
(xi) Rakkasans;
(xii) Submarine veteran;
(xiii) Tennessee woman veteran, pursuant to § 55-4-267;
(xiv) United States military, active forces, pursuant to § 55-4-252;
(xv) United States military, honorably discharged members, pursuant to § 55-4-252;
(xvi) United States military, retired forces, pursuant to § 55-4-252;
(xvii) United States reserve forces, pursuant to § 55-4-254;
(xviii) United States reserve forces, honorably discharged members, pursuant to § 55-4-252; and
(xix) United States reserve forces, retired, pursuant to § 55-4-252;
(F) Personalized, pursuant to §§ 55-4-210 and 55-4-214;
(G) Police Benevolent Association; and
(H) Retired female firefighter [Obsolete. See the Compiler's Notes.];
(6) Specialty earmarked:
(A) Agriculture;
(B) Alpha Kappa Alpha Sorority;
(C) Alpha Phi Alpha;
(D) CHILDREN FIRST!;
(E) Delta Sigma Theta Sorority, Inc.;
(F) Ducks Unlimited;
(G) Environmental;
(H) Friends of Great Smoky Mountains;
(I) Helping school volunteer;
(J) Kappa Alpha Psi;
(K) Nongame and endangered wildlife species or "Watchable Wildlife";
(L) Omega Psi Phi;
(M) Phi Beta Sigma;
(N) Supporters of Saint Jude Children's Research Hospital; and
(O) Zeta Phi Beta; and
(7) New specialty earmarked plates, as defined in § 55-4-201:
(A) A Soldier's Child [Obsolete. See the Compiler's Notes.];
(B) Alzheimer's Association [Obsolete. See the Compiler's Notes.];
(C) Animal Friendly;
(D) Appalachian Trail;
(E) Autism Awareness;
(F) Baylor School [Obsolete. See the Compiler's Notes.];
(G) BE NICE [Obsolete. See Compiler's Notes.];
(H) Boone Lake Association;
(I) Boy Scouts of America [Obsolete. See the Compiler's Notes.];
(J) Chattanooga Football Club [Obsolete. See the Compiler's Notes.];
(K) Childhood Cancer Awareness [Obsolete. See the Compiler's Notes.];
(L) Childhood Hunger Awareness [Obsolete. See the Compiler's Notes.];
(M) Children's Hospital at Erlanger;
(N) Choose Life;
(O) Civil War Preservation;
(P) Combat Action [Obsolete. See Compiler's Notes.];
(Q) Cystic Fibrosis Awareness [Obsolete. See the Compiler's Notes.];

(R) D.A.R.E. [Obsolete. See Compiler's Notes.];
(S) Diabetes Awareness [Obsolete. See the Compiler's Notes.];
(T) Dollywood Foundation;
(U) Domestic Violence and Sexual Assault Awareness;
(V) Down Syndrome Awareness;
(W) "Driving To A Cure" (Pink Ribbon);
(X) Eagle Foundation;
(Y) East Tennessee Children's Hospital;
(Z) Eastern Star [Obsolete. See Compiler's Notes.];
(AA) Fallen Linemen [Obsolete. See Compiler's Notes.];
(BB) Fallen Police and Firefighters [Obsolete. See Compiler's Notes.];
(CC) Fish and wildlife species;
(DD) Friends of Sycamore Shoals Historic Area, Inc.;
(EE) Germantown Charity Horse Show [Obsolete. See the Compiler's Notes.];
(FF) Historic Collierville [Obsolete. See the Compiler's Notes.];
(GG) Historic Franklin;
(HH) Historic Maury;
(II) Historic Whitehaven [Obsolete. See the Compiler's Notes.];
(JJ) I Stand with Israel;
(KK) In Remembrance [Obsolete. See the Compiler's Notes.];
(LL) International Association of Firefighters;
(MM) Justin P. Wilson Cumberland Trail State Scenic Trail State Park [Obsolete. See the Compiler's Notes.];
(NN) Kiwanis International;
(OO) Le Bonheur Children's Medical Center;
(PP) Louisiana State University;
(QQ) Lung Cancer Awareness;
(RR) Make-A-Wish Foundation [Obsolete. See Compiler's Notes.];
(SS) Martin Luther King, Jr.;
(TT) Masons;
(UU) Memphis Grizzlies;
(VV) Memphis Rock 'n' Soul Museum;
(WW) Methodist Le Bonheur Healthcare;
(XX) Monroe Carell Jr. Children's Hospital at Vanderbilt;
(YY) Mothers Against Drunk Driving (MADD);
(ZZ) Mountain Tough;
(AAA) Nashville Parks Foundation [Obsolete. See Compiler's Notes.];
(BBB) Nashville Predators;
(CCC) National Rifle Association;
(DDD) National Wild Turkey Federation;
(EEE) Niswonger Children's Hospital;
(FFF) North Carolina State University;
(GGG) Nurses;
(HHH) Ohio State University;
(III) Pat Summitt Foundation;
(JJJ) Police Activities League [Obsolete. See the Compiler's Notes.];
(KKK) Prostate Cancer Awareness [Obsolete. See Compiler's Notes.];
(LLL) Protecting Rivers and Clean Waters;
(MMM) Radnor Lake;
(NNN) Regional Medical Center at Memphis (The MED);

(OOO) Rotary International [Obsolete. See Compiler's Notes.];
(PPP) Save the Bees;
(QQQ) Share the Road;
(RRR) Smallmouth bass;
(SSS) Sons of Confederate Veterans;
(TTT) Sportsman;
(UUU) Strictly Vettes [Obsolete. See the Compiler's Notes.];
(VVV) Suicide Prevention;
(WWW) Support Our Troops;
(XXX) Tennessee Association of Realtors;
(YYY) Fraternal Order of Police;
(ZZZ) Tennessee School Nutrition Association [Obsolete. See Compiler's Notes.];
(AAAA) Tennessee Sheriffs' Association;
(BBBB) Tennessee Tech University [Obsolete. See Compiler's Notes.];
(CCCC) Tennessee Titans;
(DDDD) Tennessee Walking Horse;
(EEEE) Tennessee Wildlife Federation;
(FFFF) Tennessee Wildlife Federation nongame and education programs;
(GGGG) The Fairgrounds Nashville [Obsolete. See Compiler's Notes.];
(HHHH) TN Back the Blue;
(IIII) Trout Unlimited;
(JJJJ) University of South Carolina;
(KKKK) University of Tennessee Lady Volunteers' NCAA National Championships;
(LLLL) University of Tennessee National Championship;
(MMMM) VFW [Obsolete. See Compiler's Notes.];
(NNNN) Youth Villages.

(d)(1) No registration plate shall be issued under this section unless authorized by this part. Registration under this part is supplemental to the motor vehicle title and registration law, compiled in chapters 1-6 of this title, and nothing in this part shall be construed as abridging or amending that law. An applicant with more than one (1) motor vehicle titled or leased in that applicant's name, or applicants with more than one (1) motor vehicle jointly titled and/or leased in their names are entitled to an unlimited number of registration plates under the applicable provision of law, as long as all other special fees and regular costs are paid by the applicant and all requirements set out in parts 1 and 2 of this chapter are followed.

(2) No qualified person shall receive more than one (1) free plate, unless the issuance of additional free plates is specifically authorized by the statute creating the cultural, specialty earmarked or new specialty earmarked plate, memorial plate or special purpose plate.

(e) Registration plates issued to United States judges, United States senators, and members of the United States house of representatives pursuant to subdivisions (a)(9) and (a)(16)-(18) shall be of a distinctive design approved by the department and shall bear, as applicable, the district number of house members, the number "1" or "2" for senators, based on seniority, and the appropriate number for judges, based on seniority of appointment. Unless a conflict exists with other designs, the designs used before July 1, 1984, shall be used.

(f) Whenever a spouse having a cultural, specialty earmarked or new

specialty earmarked plate, memorial plate or special purpose plate is divorced and no longer entitled to the plate, the spouse no longer entitled to that plate shall deliver the plate to the county clerk, and the county clerk shall issue a regular plate valid for the same period as the cultural, specialty earmarked or new specialty earmarked plate, memorial plate or special purpose plate.

(g)(1) Registration plates issued to honorary consulars pursuant to subdivision (c)(5)(C) shall be of a distinctive design approved by the department and shall bear, as applicable, the words "Honorary Consul" and an appropriate number.

(2) The revised honorary consular plates issued pursuant to this section shall be delivered to qualified persons upon renewal of registration of the vehicle to which the plates are issued. No person with honorary consular plates shall be required to exchange the plates until the renewal of registration of the vehicle to which the plates are issued.

55-4-204. Fees.

(a) In addition to title, registration, transfer or other fees or taxes otherwise applicable under this title, persons applying for and receiving registration plates under this part shall pay additional fees as follows:

(1) Antique motor vehicle — twenty-five dollars ($25.00), pursuant to § 55-4-111(a)(1) Class C and as provided for in § 55-4-111(b);

(2) Dealers, as provided for in § 55-4-226;

(3) Disabled — regular fee applicable to the vehicle, except as expressly provided otherwise in § 55-21-103;

(4) Emergency:

(A) Amateur radio:

(i) Regular fee applicable to the vehicle, if the applicant meets the qualifications of § 55-4-225(e); or

(ii) Twenty-five dollars ($25.00), if the applicant does not meet the qualifications of § 55-4-225(e);

(B) On-call surgical personnel — regular fee applicable to the vehicle and as provided for in § 55-4-223(i);

(C) Police officer — regular fee applicable to the vehicle and as provided for in § 55-4-223(f);

(D) Regular fee applicable to the vehicle and as provided for in § 55-4-223 for the following special purpose plates:

(i) Auxiliary police;

(ii) Civil air patrol;

(iii) Civil defense;

(iv) Constables;

(v) Emergency services squad, including, but not limited to, emergency medical technicians and paramedics; and

(vi) Rescue squad;

(E) Tennessee state guard — regular fee applicable to the vehicle and a fee proportionately equal to the cost of actually designing and manufacturing the plates to ensure that the issuance of the plates is revenue neutral; provided, that the fee shall only be applicable upon initial issuance or reissuance of the plates provided for in this section and shall not be applicable at the time of renewal;

(F) Trauma nurses — regular fee applicable to the vehicle and as

provided for in § 55-4-223(h);

(G) Trauma physicians — regular fee applicable to the vehicle and as provided for in § 55-4-223(g); and

(H) United States coast guard auxiliary — regular fee applicable to the vehicle and a fee proportionately equal to the cost of actually designing and manufacturing the plates to ensure that the issuance of the plates is revenue neutral; provided, that the fee shall only be applicable upon initial issuance or reissuance of the plates provided for in this section and shall not be applicable at the time of renewal;

(5) Firefighter — regular fee applicable to the vehicle and as provided for in § 55-4-224;

(6) General assembly — twenty-five dollars ($25.00);

(7) Government service — as provided for in § 55-4-219;

(8) Judiciary — twenty-five dollars ($25.00);

(9) National guard: enlisted, officers, retirees and honorably discharged members — as provided for in § 55-4-255;

(10) Sheriff — twenty-five dollars ($25.00);

(11) Street rod — fifty dollars ($50.00) and as provided for in § 55-4-318 [obsolete];

(12) United States house of representatives — twenty-five dollars ($25.00);

(13) United States judge — twenty-five dollars ($25.00);

(14) United States senate — twenty-five dollars ($25.00);

(15) Regular fee as provided for in Class H of § 55-4-111(a)(1) and as provided for in part 7 of this chapter for Class I off-highway vehicles and Class II off-highway vehicles; and

(16) Legislator Emeritus — twenty-five dollars ($25.00).

(b) The following plates shall be issued free of charge and in the number specified by the section authorizing the issuance of the individual plate; provided, that the appropriate criteria are met by the applicant:

Memorial:

(1) Air Force Cross recipients;

(2) Air Medal (Valor) recipients;

(3) Bronze Star (Valor) recipients;

(4) Disabled Veterans, including those disabled veterans who choose to receive the Purple Heart plate pursuant to § 55-4-257(e);

(5) Distinguished Flying Cross recipients;

(6) Distinguished Service Cross recipients;

(7) Former Prisoner of War;

(8) Gold star family;

(9) Holder of the Purple Heart;

(10) Medal of Honor recipients;

(11) Navy Cross recipients; and

(12) Silver Star recipients.

(c)(1) The following military cultural plates shall be issued upon the payment of the regular registration fee and a fee equal to the cost of actually designing and manufacturing the plates; provided, that the issuance of these plates shall be revenue neutral:

(A) 5th Special Forces Group (Airborne);

(B) Air Medal (Meritorious) recipients;

(C) Blue Star family;

(D) Bronze Star (Meritorious) recipients;

(E) Combat veterans;

(F) "Enemy Evadees," as certified by the department of veterans services, pursuant to § 55-4-263;

(G) Honorably discharged veterans of the United States armed forces, pursuant to § 55-4-253;

(H) Marine Corps League;

(I) Paratrooper;

(J) Pearl Harbor survivors, pursuant to § 55-4-262;

(K) Rakkasans;

(L) Submarine veteran;

(M) Tennessee woman veteran, pursuant to § 55-4-267;

(N) United States military, active forces, pursuant to § 55-4-252;

(O) United States military, honorably discharged members, pursuant to § 55-4-252;

(P) United States military, retired, pursuant to § 55-4-252;

(Q) United States reserve forces, honorably discharged members, pursuant to § 55-4-252;

(R) United States reserve forces, pursuant to § 55-4-254; and

(S) United States reserve forces, retired, pursuant to § 55-4-252.

(2) Notwithstanding any law to the contrary, the payment of the fee equal to the cost of actually designing and manufacturing the plates provided in subdivision (c)(1) shall only be applicable upon initial issuance or reissuance of the plates specified in subdivision (c)(1) and shall not be applicable at the time of renewal.

(d) All other cultural, specialty earmarked and new specialty earmarked plates authorized by this part shall be issued upon the payment of a fee of thirty-five dollars ($35.00), in addition to the regular registration fee, in accordance with § 55-4-202(b)(2).

(e) OEM headquarters company plates shall be issued free of charge as provided for in § 55-4-227.

(f) For purposes related to this chapter, the department may authorize the state treasurer to establish a program for the sale of nonrefundable gift vouchers, gift cards, rebates, incentives, debit cards or any other form of electronic payments. The state treasurer, or designated entity, may administer all or any portion of the program regarding the use of such gift vouchers, gift cards, rebates, incentives, debit cards or any other form of electronic payments. The treasurer may charge for reasonable administration costs, or authorize the designated entity to charge a fee to defray such costs.

55-4-205. Seven characters maximum.

Registration plates issued under this part may bear up to seven (7) characters or positions for a passenger motor vehicle, recreational vehicle or truck of one-half or three-quarter-ton rating, or, if authorized, up to six (6) characters or positions for a motorcycle.

55-4-206. Rules and regulations — Compliance with state license laws — Location for making application for plates — Waiver of county name requirement.

(a) The commissioner, or any other department commissioner designated with responsibility in this section, shall make rules and regulations as are

necessary to require compliance with all state license laws relating to the use and operation of a motor vehicle before issuing cultural, specialty earmarked or new specialty earmarked plates, memorial plates or special purpose plates in lieu of the regular Tennessee license plates, and all applications for the plates shall be made to the county clerk of the county wherein the applicant resides, unless provided for otherwise.

(b) The commissioner is authorized to promulgate rules and regulations to effectuate the purposes of this part. All such rules and regulations shall be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(c) Notwithstanding § 55-4-103(b)(4), if additional space is needed on any cultural, specialty earmarked or new specialty earmarked plate, memorial plate or special purpose plate issued pursuant to this part for a logo or other identifying message, the commissioner shall be authorized to waive the requirement that the plates specify the name of the county of issue.

(d) The commissioner is authorized to facilitate delivery of any new specialty earmarked, emergency, firefighter, national guard, memorial or military plate authorized for a motorcycle in this part in a manner that maximizes efficiency and costs, and is not unduly burdensome to either the department or county clerks.

55-4-207. Expiration and renewal.

(a) Notwithstanding § 55-4-104 or other provisions of part 1 of this chapter, all license plates issued under this part and certificates of registration shall not expire on March 31 of each year, but rather shall expire pursuant to subsection (b).

(b) With respect to motor vehicles using plates issued pursuant to this part, the commissioner shall establish a system of registration renewals at alternate intervals which will allow for the distribution of the registration workload as uniformly as is practicable throughout the calendar year. Registrations issued under the alternate method are valid for twelve (12) months, and expire on the last day of the last month of the registration period. However, during a transition period, or at any time thereafter when the commissioner shall determine that the volume of work for any given interval is unduly burdensome or costly, either registrations or renewals, or both of them, may be issued for terms of not less than six (6) months nor more than eighteen (18) months. The fee imposed for registration of any vehicle under the alternate interval method for a period of other than twelve (12) months shall be proportionate to the annual fee fixed for the vehicle and modified in no other manner, except that the proportional fee shall be rounded off to the nearest quarter of a dollar ($0.25).

(c) Notwithstanding this section, dealer plates shall be issued and renewed pursuant to § 55-4-226.

55-4-208. Reimbursement of cost.

The cost of any registration plate that is provided without cost to an individual on account of employment, membership, or participation in any agency, department, organization, or governmental entity shall be reimbursed to the department by the agency, department, organization, or governmental entity of which the person is an employee, member, or participant.

55-4-209. Disabled drivers.

(a) Registration plates for disabled drivers shall be issued in accordance with this chapter and chapter 21 of this title.

(b)(1) Persons who are eligible to purchase or receive a license plate or plates of distinctive design for disabled drivers pursuant to chapter 21 of this title may elect to personalize the plate or plates pursuant to §§ 55-4-214 and 55-21-103.

(2) Personalized plates for disabled drivers shall bear the stylized wheelchair symbol required by § 55-21-104.

(3) The issuance and renewal of plates for disabled drivers shall otherwise comply with §§ 55-4-214 and 55-4-218, including annual payment by the applicant of a twenty-five-dollar ($25.00) fee for each personalized plate in addition to the regular registration fee, if the regular registration fee is applicable.

55-4-210. Authorization; issuance.

(a) The department is authorized to administratively issue personalized plates to qualified applicants; provided, that the minimum issuance requirements of § 55-4-202(b)(3) and all other requirements of this part are met.

(b) The department is additionally authorized to administratively issue collegiate plates, as defined in § 55-4-201, that have a special reference to or identification or information on a two-year or four-year college or university located within Tennessee or a four-year college or university located outside Tennessee to qualified applicants; provided, that the minimum issuance requirements of § 55-4-202(b)(3) and all other requirements of this part are met for each classification of collegiate plates.

(c)(1) All cultural, specialty earmarked and new specialty earmarked plates, including personalized and collegiate plates, may be issued for private passenger automobiles, recreational vehicles and trucks of one-half or three-quarter-ton rating, unless specifically prohibited by § 55-4-214.

(2) Personalized and collegiate plates may also be issued for motorcycles, provided the minimum issuance requirements of § 55-4-202(b)(3) are met.

(d)(1) The commissioner shall not issue any license plate commemorating any practice which is contrary to the public policy of the state, nor shall the commissioner issue any license plate to any entity whose goals and objectives are contrary to the public policy of Tennessee.

(2) The commissioner shall refuse to issue any combination of letters, numbers or positions that may carry connotations offensive to good taste and decency or that are misleading.

(e) Registration numbers for license plates issued pursuant to this part shall not conflict with or duplicate the registration numbers for any existing passenger, recreational, commercial, trailer or motor vehicle registration plates that are presently issued pursuant to statute, resolution, executive order, or custom.

(f)(1) The department is authorized to design, issue, and renew, or to authorize a designee to issue and renew, off-highway vehicle plates for the following vehicles registered by residents of this state:

(A) Class I off-highway vehicles; and

(B) Class II off-highway vehicles.

(2) The department is authorized to design, issue, and renew, or to authorize a designee to issue and renew off-highway vehicle temporary

permits in lieu of plates for off-highway vehicles registered by nonresidents; provided, however, that a nonresident may apply directly to the department for an off-highway vehicle permit. An off-highway vehicle temporary permit shall be valid for thirty (30) days.

(3) The department is authorized to contract with county clerks and with private vendors for the issuance and renewal of off-highway vehicle plates and off-highway temporary permits.

55-4-211. Computerization of applications and records.

The commissioner is urged to take the necessary steps to computerize applications for and records of the cultural, specialty earmarked and new specialty earmarked plates, memorial plates and special purpose plates authorized by this part.

55-4-212. Miscellaneous provisions.

(a) This subsection (a) shall apply to the issuance and renewal of the cultural, specialty earmarked and new specialty earmarked plates authorized by this part, unless the section authorizing the issuance of an individual plate specifically provides otherwise:

(1) The plates enumerated in this subsection (a) shall be issued in conformity with § 55-4-203;

(2) The plates shall contain the logo, emblem, insignia, or other distinctive design of the agency, organization, purpose or other entity which is being honored or recognized by the issuance of that specific plate;

(3) The plates shall be designed in consultation with the commissioner and the department's taxpayer and vehicle services director, in addition to any other person or entity designated to be consulted relative to the design of the plate in the section authorizing an individual plate;

(4) The plates shall include:

(A) A unique identifying number not to exceed seven (7) characters or positions for a motor vehicle authorized by § 55-4-210(c)(1); or

(B) If authorized, a unique identifying number not to exceed six (6) positions or characters for a motorcycle;

(5) No two (2) applicants shall be assigned identical registration numbers or identical license plates;

(6) Any eligible person may elect to exchange a regular registration plate for a plate enumerated in subsection (a); provided, that the fees prescribed under § 55-4-204 are paid;

(7) The whole or parts of the additional fee prescribed by § 55-4-204 for a cultural, specialty earmarked or new specialty earmarked plate shall not be refunded for the exchange of a regular plate;

(8) Additional such plates may be obtained by any eligible person upon payment of the regular license fee for plates, as prescribed under § 55-4-111, plus the payment of the fee prescribed in § 55-4-204;

(9) The plates enumerated in this subsection (a) shall be issued for the applicant's use only on the authorized motor vehicle, and in the event of a transfer of title, the transferor shall surrender the plate to the department through the county clerk;

(10) The plates may be transferred to another vehicle of the same weight class owned or leased by the same person upon proper application being

made therefor and approved by the department; and

(11) It is unlawful for any person to whom the plates have been issued to knowingly permit them to be displayed on any motor vehicle, except as authorized by the department.

(b) This section shall also apply to the issuance and renewal of special purpose plates and memorial plates, unless the section authorizing the issuance of an individual memorial or special purpose plate specifically provides otherwise.

55-4-213. Promotional campaign.

(a) To increase public knowledge of the availability of cultural, specialty earmarked and new specialty earmarked motor vehicle registration plates, the department shall conduct a promotional campaign, which shall include, but not be limited to, the inclusion of applications for, and information about, these plates with motor vehicle registration renewal notices.

(b) The promotional campaign authorized in subsection (a) shall include, but not be limited to:

(1) The inclusion of the following information in the motor vehicle registration renewal notices:

(A) An application for cultural, specialty earmarked and new specialty earmarked plates;

(B) An explanation of the formula by which the additional fees for each plate are allocated; and

(C) An illustration of the plates, selected in consultation with the transportation and safety committee of the senate and transportation committee of the house of representatives; and

(2) The creation and distribution of a chart containing an illustration and the information required by subdivision (b)(1)(B) for each cultural, specialty earmarked and new specialty earmarked plate at each county clerk's office. The chart shall be printed on paper eight and one-half inches by seven inches (8½″ x 7″).

(c) For any insert included in the mailing of renewal notices which originates from a county and which causes the total postal weight to be over one ounce (1 oz.) as permitted by the United States postal service, the county shall pay the increased cost of mailing. However, the weight of any notice of a vehicle emissions testing requirement shall not be included in the calculation of the total weight.

55-4-214. Personalized plates — Fees.

(a)(1) In addition to the personalized plates authorized by § 55-4-210, an applicant may, through the payment of a personalization fee of thirty-five dollars ($35.00), in addition to the regular registration fee and the thirty-five-dollar ($35.00) fee established by § 55-4-202(b)(2), obtain certain cultural, specialty earmarked and new specialty earmarked plates with a personalized combination of numbers, letters, positions or a combination of numbers, letters and positions.

(2) The personalization fee shall be paid by the applicant upon the issuance and renewal of any personalized plate.

(b)(1) An applicant for the issuance of personalized motor vehicle registration plates or the personalization of cultural, specialty earmarked or new

specialty earmarked motor vehicle registration plates pursuant to subsection (a) or the renewal of those plates in a subsequent registration year shall file an application in the form and by the date as the department may require, indicating the numbers, letters, positions or combination, requested as a registration number.

(2) The registration number shall consist of not less than three (3) nor more than seven (7) numbers, letters, positions or combination of numbers, letters or positions for a passenger motor vehicle, truck of one-half or three-quarter-ton rating or recreational vehicle or trailer or semitrailer that is not required to be registered but that the owner desires to be registered pursuant to § 55-4-111(c)(3), or, if authorized, not less than three (3) nor more than six (6) numbers, letters, positions or combination of numbers, letters or positions for a motorcycle.

(3) Registration numbers issued pursuant to this section shall be in compliance with § 55-4-210(d) and (e).

(c) The following plates shall not be eligible for personalization pursuant to this section, but may be personalized if the statute authorizing such plate permits or requires the plates to be personalized in some form:

(1) Dealer;

(2) Emergency;

(3) Firefighter, pursuant to § 55-4-224;

(4) General assembly;

(5) Government service;

(6) Honorary consular;

(7) Judiciary;

(8) Memorial, as enumerated in § 55-4-203(c)(4) and defined in § 55-4-250;

(9) Metropolitan council;

(10) Military, as enumerated in § 55-4-203(c)(5)(E);

(11) National guard;

(12) OEM headquarters company;

(13) Sheriff;

(14) Street rod, as defined in § 55-4-230 [obsolete];

(15) United States house of representatives;

(16) United States judge; and

(17) United States senate.

(d)(1) Notwithstanding any provision of this title to the contrary, any person who fulfills the following conditions may continue to renew and be issued personalized plates that consist of two (2) letters, numbers, or a combination of letters and numbers:

(A) The person was the owner of a passenger motor vehicle which was registered with the department prior to July 1, 1984; and

(B) The person was issued a personalized motor vehicle registration plate which consisted of two (2) letters, numbers, or combination thereof prior to July 1, 1984.

(2) All other provisions of this title regarding registration and licensing of passenger motor vehicles shall apply to any registration plates issued in accordance with subdivision (d)(1).

55-4-215. Allocation of revenue from personalized plates.

(a) Effective July 1, 1998, and for all subsequent fiscal years, all revenues produced from the sale or renewal of personalized plates and all revenues produced from the personalization of cultural, specialty earmarked and new specialty earmarked motor vehicle registration plates as authorized by §§ 55-4-214 and 55-4-241, or renewals of the plates, after deducting the expense the department has incurred in designing, manufacturing and marketing the plates, shall be allocated to the Tennessee arts commission created in title 4, chapter 20.

(b) Nothing in this section shall be construed as reallocating the revenues produced from the regular motor vehicle registration fees, or renewals thereof, imposed by part 1 of this chapter. Such revenues shall be allocated in accordance with § 55-6-107.

(c)(1) Notwithstanding subsection (a), funds received from the sale of personalized trailer plates shall be earmarked as provided by this subsection (c). A general fund reserve is established to be allocated by the general appropriations act, which shall be known as the trailer license plate fund, referred to as the fund in this subsection (c).

(2) Moneys from the fund shall be expended to finance the development and maintenance of public horseback riding trails.

(3) Any revenues deposited in the fund shall remain in the fund until expended for purposes consistent with this section, and shall not revert to the general fund on any June 30.

(4) Any excess revenues shall not revert on any June 30, but shall remain available for appropriation in subsequent fiscal years.

(5) Any appropriation from the fund shall not revert to the general fund on any June 30, but shall remain available for expenditure in subsequent fiscal years.

(6) No moneys shall be expended from the fund unless the funds are specifically appropriated by the general appropriations act.

55-4-216. Allocation of revenue from cultural plates.

(a) Effective July 1, 1998, and for all subsequent fiscal years, all revenues produced from the sale or renewal of cultural motor vehicle registration plates as defined in § 55-4-201, excluding personalized plates and the arts plates authorized by § 55-4-240, after deducting the expense the department has incurred in designing, manufacturing and marketing the plates, shall be allocated as follows:

(1) Eighty percent (80%) of the funds shall be allocated to the Tennessee arts commission created in title 4, chapter 20; and

(2) Twenty percent (20%) of the funds shall be allocated to the state highway fund.

(b)(1) Notwithstanding subsection (a), the revenues produced from the sale or renewal of personalized plates pursuant to § 55-4-210 and the revenues produced from the personalization of cultural, specialty earmarked and new specialty earmarked motor vehicle registration plates pursuant to §§ 55-4-214 and 55-4-241, or renewals thereof, shall be allocated in accordance with § 55-4-215.

(2) Notwithstanding this section, the revenues produced from the sale or renewal of the cultural plates to support the arts authorized by § 55-4-240

shall be allocated in accordance with § 55-4-217.

(c) Nothing in this section shall be construed as reallocating the revenues produced from the regular motor vehicle registration fees, or renewals thereof, imposed by part 1 of this chapter. The revenues shall be allocated in accordance with § 55-6-107.

55-4-217. Allocation of revenue from cultural earmarked plates.

(a) Notwithstanding any provision of this part to the contrary, all revenues produced in each fiscal year from the sale or renewal of the cultural earmarked plates to support the arts authorized by § 55-4-240, minus the expense the state has incurred in manufacturing the plates, shall be allocated to the Tennessee arts commission.

(b) Nothing in this section shall be construed as reallocating the revenues produced from the regular motor vehicle registration fees, or renewals thereof, imposed by part 1 of this chapter. The revenues shall be allocated in accordance with § 55-6-107.

55-4-218. Allocation of revenue from special purpose and memorial plates.

Effective July 1, 1998, and for all subsequent fiscal years, the revenues produced from the sale or renewal of special purpose motor vehicle registration plates and memorial motor vehicle registration plates as defined in § 55-4-201, after deducting the expense the department has incurred in manufacturing the plates, shall be allocated in accordance with § 55-6-107.

55-4-219. Governmental service.

(a)(1)(A) Upon the sworn statement from the head of any department of state government or the county mayor of any county, or the mayor or other executive head of any town or city, or upon certification of authorized officials of the United States government, or upon the sworn statement from the chief of any private or volunteer fire department, that the motor vehicle for which application is being made for registration is owned or leased by the state, the county, municipality, United States government, or the private or volunteer fire department, and operated exclusively for essential governmental purposes or exclusively for fire protection purposes, the department, through the county clerk or as otherwise provided hereinafter, shall register the vehicles and issue registration plates upon the payment of one dollar and twenty-five cents ($1.25).

(B) In addition to the governmental entities listed in subdivision (a)(1)(A), senior citizens service centers which meet the standards set by the commission on aging for eligibility to receive state funds may also apply for government service plates under this section for vans owned by the centers and used exclusively for the centers' activities.

(C) In addition to the governmental entities listed in subdivisions (a)(1)(A) and (B), human resource agencies created pursuant to § 13-26-102 and development districts as created pursuant to § 13-14-102 may also apply for government service plates under this section for vans owned by such human resource agencies and development districts and used exclusively for agencies' and districts' activities.

(D) In addition to the governmental entities listed in subdivisions (a)(1)(A) and (B), community action agencies may also apply for government service plates under this section for vans owned by such community action agencies and used exclusively for agencies' activities.

(2) The county clerk shall have a right to collect the fee for registration as hereinafter provided.

(3) The commissioner shall promulgate rules and regulations to effectuate this section.

(4) Registration certificates and plates shall be valid for the motor vehicles until the transfer of ownership or the destruction of the motor vehicles at which time the registration shall expire. Upon the expiration of any such registration, the registration certificates and plates shall be returned to the department.

(5) Upon proper application through the county clerk, the registration plates may be transferred to another motor vehicle acquired by the owner to whom the registration certificates and plates were previously issued upon the payment of one dollar ($1.00) plus the county clerk's fee, except that application from the head of any department of state government may be made directly to the department of revenue.

(6) All registration plates issued to state departmental agencies shall be of a distinctive design as approved by the commissioner and shall not display the year of issuance. All registration plates issued to governmental agencies, other than the state, shall be of a distinctive design and shall have conspicuously inscribed, stamped or printed thereon so as to be easily seen and read the words "Govt. Service" or "Govt. Ser." All registration plates issued to private or volunteer fire departments shall be of a distinctive design.

(b) The exemption conferred by this section shall apply only to motor vehicles owned or leased and operated by governmental units or private or volunteer fire department units exclusively for governmental and fire protection purposes and shall not apply to motor vehicles operated by governmental units as bailee.

(c)(1) "Essential government purposes" includes the operation of local transit service by independent contractors operating a local transit company.

(2) As used in this subsection (c):

(A) "Local transit company" means a person, firm, partnership or corporation, engaged in furnishing, and at least sixty percent (60%) of the total passenger fare revenue of which shall be derived from, scheduled common carrier public passenger land transportation service along the regular routes within a municipality and the territory adjacent thereto, or within a metropolitan government created under title 7, chapters 1-3, the operation of which is supervised, regulated and controlled as a street railway company, under § 65-16-101 [repealed] and all other legislative and statutory provisions applicable thereto; and

(B) "Local transit service" means scheduled common carrier public passenger land transportation service furnished by a local transit company within the territorial limits of the regulatory jurisdiction of the municipality or metropolitan government that is authorized to supervise, regulate and control the operations of such company, under § 65-16-101 [repealed], and all other legislative and statutory provisions applicable thereto.

(d) Upon the further certification of the person authorized by this section to

apply for registration that issuance of plates has been requested for vehicles assigned for use in the investigation of actual or suspected violations of the law, the department may issue plates or authorize issuance thereof from the regular series used for non-tax-exempt vehicles. The registrar of motor vehicles, with the approval of the attorney general and reporter, may enter into agreements with the proper officials of other states for the exchange of plates for the purposes provided in this section.

55-4-220. General assembly members.

(a) A member of the general assembly, complying with the title and registration law and upon payment of the regular license fee appropriate to the vehicle's design or use as prescribed in this chapter, plus payment of the additional fee provided for in § 55-4-204, shall be issued a registration plate as provided for in this part.

(b) The design of the special purpose license plates shall be rectangular in shape, white in color with all letters and numbers in blue and the great seal of Tennessee in gold. There shall be centered on the upper edge, the word "Tennessee" or "Tenn" enclosed in a drawing of the state, with the current year of registration designated in the upper left and right corners of the rectangle; centered on the lower edge shall be the word or words "Senate" or "House" as may be appropriate; on the left half of the plate shall be the great seal of the state of Tennessee; and on the right half of the plate the member may at option use the member's initials or other letters if the total number of characters making up the configuration does not exceed four (4) rather than the number assigned to the member. The design of the plate shall not be used by any other branch or agency of the state.

(c) The suffixes provided for in § 55-4-203(b)(2), shall be assigned by the speaker of each house. The same numbers assigned in the first year of the biennial for a general assembly shall be assigned for the second year.

(d) A member, optionally, may use initials or other letters if the total number of characters does not exceed four (4). In the event there is a conflict with respect to like letters, the first applicant to the department shall be entitled to preference.

(e) Members of the general assembly may be entitled to special purpose plates for additional automobiles owned by the members or their immediate families. These additional plates may bear the same legend as the first assigned tags but shall be distinguished therefrom by the addition of letters A, B, or C; provided, that the letters do not exceed the requirements of this part.

(f) The special plates shall be delivered to the several county clerks for issuance during each registration renewal period as provided in § 55-4-207, except that the registrar of motor vehicles may make direct issue of the plates to the members upon proper application being made, if the plates can be prepared for direct issuance prior to March 1.

(g) This section shall not be construed to mean that any member shall be prevented from exchanging a regular type plate for one of special design in the course of a given registration year.

(h) The commissioner is authorized to facilitate the continued utilization of existing, issued special purpose plates by a member of the general assembly upon the member's reelection through the issuance of decals or by any other means as to effectuate this subsection (h). Any method of continued utilization

shall only be available for plates previously issued to members of the general assembly or their immediate families. Upon ineligibility under this section, any special purpose plates issued shall be surrendered to the department and the department shall issue a regular registration plate valid for the same period as the surrendered special purpose plate. The continued use of existing, issued special purpose plates upon reelection shall be accomplished in a manner that maximizes efficiency and costs and is not unduly burdensome to either the department or county clerks.

55-4-221. Judiciary members.

(a) Registration plates for members of the judiciary shall be issued in accordance with this part.

(b) Registration plates for judges of the state courts of record shall bear individual distinctive numbers, as determined by the commissioner in consultation with the administrative director of the courts.

(c)(1) An owner or lessee of a motor vehicle who is a resident of this state and who is a duly elected juvenile court judge, upon complying with state motor vehicle laws relating to registration and licensing of motor vehicles, payment of the regular license fee for plates, as prescribed under § 55-4-111, and payment of the additional fee provided for in § 55-4-204, shall be issued a license plate, as prescribed by § 55-4-101, for motor vehicles authorized by § 55-4-210(c), upon which, in lieu of the numbers as prescribed by § 55-4-103, shall be inscribed an individual distinctive number.

(2) Former juvenile court judges may also obtain a license plate as provided for in subdivision (c)(1).

(d) An owner or lessee of a motor vehicle who is a resident of this state and who is a duly elected general sessions court judge or former general sessions court judge, upon complying with state motor vehicle laws relating to registration and licensing of motor vehicles, payment of the regular license fee for plates, as prescribed under § 55-4-111, and payment of the additional fee provided for in § 55-4-204, shall be issued a license plate, as prescribed by § 55-4-101, for motor vehicles authorized by § 55-4-210(c), upon which, in lieu of the numbers as prescribed by § 55-4-103, shall be inscribed with an individual distinctive number.

(e) An owner or lessee of a motor vehicle who is a resident of this state and who is a retired or former member of the Tennessee judicial conference, upon complying with state motor vehicle laws relating to registration and licensing of motor vehicles, payment of the regular license fee for plates, as prescribed under § 55-4-111, and payment of the additional fee provided for in § 55-4-204, shall be issued a license plate, as prescribed by § 55-4-101 for motor vehicles authorized by § 55-4-210(c), upon which, in lieu of the numbers as prescribed by § 55-4-103, shall be inscribed an individual distinctive number.

(f) An owner or lessee of a motor vehicle who is a resident of this state and who is a municipal court judge or former municipal court judge, upon complying with state motor vehicle laws relating to registration and licensing of motor vehicles, payment of the regular license fee for plates, as prescribed under § 55-4-111, payment of the additional fee provided for in § 55-4-204, shall be issued a license plate, as prescribed by § 55-4-101, for motor vehicles authorized by § 55-4-210(c), upon which, instead of the numbers as prescribed by § 55-4-103, shall be inscribed an individual distinctive number.

(g) The amendments to this section by chapter 336 of the Public Acts of

1987, which applied provisions of this section to certain former judges, shall not apply to any judge who has been convicted of a felony or who has been removed from office.

(h) Notwithstanding any law to the contrary, the commissioner is authorized, and shall issue, license plates to owners or lessees of motorcycles otherwise qualified pursuant to this section upon complying with state motor vehicle laws relating to registration and licensing of motorcycles and paying the regular fee applicable to motorcycles and the fee provided for in § 55-4-204.

(i) An owner or lessee of a motor vehicle who is a resident of this state and whose duty is to serve a judiciary function as a magistrate, upon complying with state motor vehicle laws relating to registration and licensing of motor vehicles, payment of the regular license fee for plates, as prescribed under § 55-4-111, and payment of the additional fee provided for in § 55-4-204, shall be issued a license plate, as prescribed by § 55-4-101, for motor vehicles authorized by § 55-4-210(c), upon which, instead of the numbers as prescribed by § 55-4-103, shall be inscribed an individual distinctive number.

55-4-222. Sheriffs.

An owner or lessee of a motor vehicle who is a resident of this state and who is a duly elected sheriff, upon complying with state motor vehicle laws relating to registration and licensing of motor vehicles, payment of the regular license fee for plates, as prescribed under § 55-4-111, and payment of the additional fee provided for in § 55-4-204, shall be issued a registration plate which shall bear the number of the sheriff's county of jurisdiction and the word "SHERIFF" in capital letters.

55-4-223. Emergency personnel.

(a) Registration plates issued under the emergency category pursuant to § 55-4-203(c)(1)(B)-(K) may be issued to persons included in the groups set out in this section, and in accordance with this part.

(b) An owner or lessee of a motor vehicle who is a resident of this state and who holds a permanent official identification card of an auxiliary police unit working with the civil defense authorities, upon complying with state motor vehicle laws relating to registration and licensing of motor vehicles, payment of the regular license fee for plates, as prescribed under § 55-4-111 and payment of the fee provided for in § 55-4-204, shall be issued a registration plate as provided for in this part.

(c) A resident of the state who holds a permanent official registration card of the civil air patrol and/or the civil defense organization, and/or a spouse, whose vehicle is titled or leased in the name of the resident and/or spouse, upon application accompanied by a letter from the local civil defense director indicating the current membership of the applicant and/or the spouse of the applicant, upon complying with state motor vehicle laws relating to registration and licensing of motor vehicles, payment of the regular license fee for plates, as prescribed under § 55-4-111, and payment of any fee provided for in § 55-4-204, shall be issued a registration plate as provided for in this part.

(d) An owner or lessee of a motor vehicle, who is a resident of this state and who is a member of the Tennessee Association of Rescue Squads or who is a resident of this state and a member of an emergency services squad in any

county having a population of six hundred thousand (600,000) or more, according to the 1970 federal census or any subsequent federal census, or who is a resident of this state and is an emergency medical technician or paramedic, upon complying with the title and registration law, payment of the regular license fee appropriate to the vehicle's design or use, as prescribed under § 55-4-111 or § 55-4-113, and payment of the fee provided for in § 55-4-204, shall be issued a registration plate as provided for in this part; except, that any active volunteer member of a local rescue squad who has at least one (1) year of service shall be exempt, at the time of renewal, from the regular license fee for only one (1) motor vehicle, upon the certification or sworn statement from the captain of the local rescue squad to which the person is attached confirming the person is an active volunteer member. In addition to the exemption provided by this subsection (d), the legislative body of a county is authorized to waive the motor vehicle tax for motor vehicles receiving an exemption under this subsection (d) from the registration fee if the waiver is approved in the same manner as the adoption of the motor vehicle tax under § 5-8-102. The county clerk shall issue no plates to a local rescue squad member until receiving a list of all eligible members from the captain of the local rescue squad. Emergency medical technicians or paramedics not affiliated with a local rescue squad shall be required to present a current, valid paramedic or emergency medical technician's license prior to issuance of a plate under this section.

(e)(1) The commissioner shall cause to be manufactured metal plates of distinctive design for various groups included in the emergency category. Upon application by the president, or other chief executive officer, of recognized organizations of persons in the various groups in the emergency category and the submission of a certified listing of the members of that organization and their motor vehicle registration numbers, the commissioner shall sell, at a cost of two dollars and fifty cents ($2.50) per plate, to the chief executive officer the appropriate number of plates for distribution to each listed person, with the plates to be displayed on the front of each vehicle registered by that person in the emergency category.

(2) The plates shall be for identification purposes only and shall not be valid for motor vehicle operation. The plates shall be issued only for the term of the emergency category registration plate, and shall be surrendered by the holder at such time as the holder's emergency registration expires or the holder ceases to be a member of the group included in the emergency category.

(3) It is a Class A misdemeanor to display the plate on any vehicle that is not properly registered in the emergency category.

(f) Notwithstanding this section to the contrary, an owner or lessee of a motor vehicle who is a resident of the state and who is a full-time police officer as defined by § 38-8-101 and is certified as such, and authorized, by the chief law enforcement officer of the organization to which the person is attached or by which the person is employed, upon complying with state motor vehicle laws relating to registration and licensing of motor vehicles and paying the regular fee applicable to the motor vehicle, shall be issued an emergency registration plate.

(g) Notwithstanding this section to the contrary, an owner or lessee of a motor vehicle who is a resident of the state and who is a trauma physician licensed by the board of medical examiners, who submits a statement or

certification from the board of medical examiners and from a trauma center in a hospital or other medical facility confirming that the applicant practices medicine as a trauma physician, upon complying with state motor vehicle laws relating to registration and licensing of motor vehicles and paying the regular fee applicable to the motor vehicle and a fee equal to the cost of producing the plate; provided, however, that the issuance of the plates shall be revenue neutral, shall be issued an emergency registration plate and shall be eligible to renew such emergency registration plate.

(h) Notwithstanding this section to the contrary, an owner or lessee of a motor vehicle who is a resident of the state and who is a nurse licensed by the Tennessee board of nursing, who submits a statement or certification from a trauma center or emergency room in a hospital or other medical facility confirming that the applicant is a trauma nurse, upon complying with state motor vehicle laws relating to registration and licensing of motor vehicles and paying the regular fee applicable to the motor vehicle and a fee equal to the cost of producing the plate; provided, that the issuance of the plates is revenue neutral, shall be issued an emergency registration plate and shall be eligible to renew the registration plate.

(i) Notwithstanding this section to the contrary, an owner or lessee of a motor vehicle who is a resident of this state and who is on-call surgical personnel licensed or certified under title 63 or as a surgical technologist under title 68, chapter 57, serving in a hospital, emergency room or surgical department, who submits a statement or certification from the hospital, emergency room or surgical department confirming that the applicant is on-call surgical personnel, upon complying with state motor vehicle laws relating to registration and licensing of motor vehicles and paying the regular fee applicable to the motor vehicle and a fee equal to the cost of producing such plate, shall be issued an emergency registration plate and shall be eligible to renew such registration plate; provided, that the issuance of the plates shall be revenue neutral.

(j) Subject to the requirements of § 55-4-202, the commissioner is authorized and shall issue a license plate to an owner or lessee of a motorcycle who is otherwise eligible for an emergency plate in the appropriate category; provided, however, that the owner or lessee shall comply with the state motor vehicle laws relating to registration and licensing of motorcycles and shall pay the regular fee applicable to motorcycles and the applicable fee specified in § 55-4-204 prior to the issuance of the plate.

(k) Notwithstanding this section to the contrary, an owner or lessee of a motor vehicle who is a resident of the state and who is a constable duly elected, trained, and qualified in accordance with title 8, chapter 10, and is certified as such, and authorized, by the county legislative body of the county in which the person serves, upon complying with state motor vehicle laws relating to registration and licensing of motor vehicles and paying the regular fee applicable to the motor vehicle, shall be issued an emergency registration plate.

55-4-224. Firefighters.

(a) An owner or lessee of a motor vehicle who is a resident of this state and who is a member of a volunteer fire department or full-time firefighting unit, or another bona fide firefighter, including a paid, paid-on-call, or volunteer

firefighter, or a bona fide retired firefighter, shall be issued a special firefighter registration plate, as provided for in this part, upon proof of current membership in a firefighting unit, or upon proof of former membership in a firefighting unit from which the owner or lessee is a retired member in good standing, and upon compliance with state motor vehicle registration and licensing laws and payment of the applicable registration fee under § 55-4-111; except, that any active volunteer firefighter who has at least one (1) year of service shall be exempt, at the time of renewal, from the applicable registration fee for only one (1) motor vehicle, upon the certification or sworn statement from the chief of the fire department to which the person is attached confirming the person is an active volunteer firefighter. In addition to the exemption provided by this subsection (a), the legislative body of a county is authorized to waive the motor vehicle tax for motor vehicles receiving an exemption under this subsection (a) from the registration fee if the waiver is approved in the same manner as the adoption of the motor vehicle tax under § 5-8-102.

(b) Subject to the requirements of § 55-4-202, the commissioner is authorized and shall issue a license plate to an owner or lessee of a motorcycle who is otherwise eligible for a special firefighter registration plate; provided, however, that the owner or lessee shall comply with the state motor vehicle laws relating to registration and licensing of motorcycles and shall pay the regular fee applicable to motorcycles and the applicable fee specified in § 55-4-204 prior to the issuance of the plate.

55-4-225. Amateur radio station licensees.

(a) An owner or lessee of a motor vehicle who is a resident of this state and who holds an unrevoked and unexpired official amateur radio station license issued by the federal communications commission may apply to the department, through the county clerk, for issuance of a special purpose license plate under this part. The application shall be accompanied by proof of ownership of a amateur radio station license.

(b)(1) The initial issuance of a special purpose license plate to the applicant shall be made upon payment of the regular registration fee for plates, as prescribed under § 55-4-111, and upon payment of the additional fee prescribed by § 55-4-204, if applicable. Thereafter, annual renewal for a qualified resident shall be as provided by this chapter.

(2) The special purpose license plates issued pursuant to this section for motor vehicles authorized by § 55-4-210(c) and motorcycles shall bear the official amateur radio call letters assigned by the federal communications commission to the applicant.

(c) All applications under this section shall be accompanied by the required fees.

(d) In the event of the reissuance of a special purpose license plate under this section whether due to design changes, loss, changes in call letters, revocation or expiration of the radio station license or any other reason shall require payment of fees in the same manner as initial issuance of the license plate.

(e)(1) To be eligible for an amateur radio license plate issued pursuant to § 55-4-203(c)(1)(A) without paying the fee prescribed by § 55-4-204(a)(4)(A)(ii) in addition to the regular fee for the plate, the registrant shall furnish proof to the commissioner, through the county clerk, that the

registrant is a member of a squad or group that actively participates in needed services during any and all emergencies, as determined by the civil defense, rescue squads or other organizations that are engaged in volunteer emergency services.

(2) Notwithstanding this part to the contrary, to be eligible for an amateur radio license plate without paying the fee prescribed by § 55-4-204(a)(4)(A)(ii) in addition to the regular fee for the plate, the registrant shall furnish proof to the commissioner, through the county clerk, that the registrant:

(A) Has credentials approved by the county emergency management director; or

(B) Holds a class license as an amateur radio operator issued by the federal communications commission.

55-4-226. Dealers.

(a) Registration plates issued under the dealer category may be issued to manufacturers, dealers and transporters of motor vehicles as provided for in this part.

(b)(1) Any dealer owning any vehicle that may be legally operated upon the streets or highways of this state with a regular vehicle registration may, either in person or through a duly authorized agent or employee, operate or move the vehicle upon any highway of the state without registering each such vehicle, upon condition that the vehicle display a special purpose plate issued to that owner as prescribed in this part. The dealer may further authorize the operation of the vehicle bearing such plates by customers for temporary purposes not to exceed seventy-two (72) hours. The dealer may further authorize the operation of the vehicle bearing such plates by any customer who is using the vehicle, without charge, while the customer's vehicle is being serviced or repaired by the dealer or by any person who is participating in a driver's education program and is operating a vehicle that was provided by the dealer to a school for use in the driver's education program.

(2) The special purpose dealer plate shall have the legend "TENN" at the top of the plate and shall have "auto dealer" at the bottom of the plate. The legend shall contain the letter "D" and five (5) numbers. The special purpose dealer plate for a motor vehicle dealer that sells used motor vehicles shall have a red background and white letter and numbers. The special purpose dealer plate for a franchise motor vehicle dealer that sells new motor vehicles shall have a white background and black letter and numbers.

(3) Any dealer who has a valid number assigned by the motor vehicle commission may make application to the department for one (1) or more special purpose plates. The fee for the first plate is forty-seven dollars and thirty cents ($47.30), and the fee for any plates in addition to the first plate is twenty-three dollars and sixty-five cents ($23.65) for each additional plate. No dealer shall be permitted to purchase more than two hundred twenty-five (225) auto dealer plates during a registration year.

(4) A transporter may operate or move any vehicle that may be legally operated under a regular vehicle registration upon any highway within this state solely for the purpose of delivery, upon likewise displaying thereon like plates issued to the transporter as provided in this part.

(5) Any vehicle preparation service or motor vehicle auction company licensed by the state may obtain special purpose plates to operate or move dealer-owned vehicles upon any highway within the state solely for the purpose of transporting the vehicles between a dealer's business location and the location where the cleaning, repairing, or preparation is performed or where the vehicle is to be auctioned, and for the purposes of testing the vehicle within a twenty (20) mile radius of the location where the cleaning, repairing or preparation is performed.

(6) This subsection (b) shall not apply to work or service vehicles owned by a manufacturer, transporter or dealer.

(c)(1) Any manufacturer or transporter may make application to any county clerk within the state, and any vehicle preparation service may make application to the county clerk of the county where the established place of business of the service is located, upon appropriate forms for a certificate and for one (1) or more special purpose plates or single special purpose plates as appropriate to vehicles subject to registration hereunder, which plates shall be of the same color as auto dealer plates issued in the state for the particular year in question and on which shall appear the letters "DL" and identifying numbers. An applicant for these registration plates who is a transporter shall submit proof of the applicant's status as a bona fide transporter that may reasonably be required by the county clerk to whom the application is made. If the applicant is a manufacturer, the county clerk shall not issue the registration plates until the applicant has registered with the county clerk to whom the application is made the number of the current license issued to such manufacturer by the motor vehicle commission. For registering the license number of such manufacturers and dealers, the county clerk shall be entitled to a fee of five dollars ($5.00).

(2) The county clerk, upon granting an application, shall, upon the payment of the appropriate fee, issue to the applicant a certificate containing the applicant's name and address.

(3) All special purpose plates issued to any vehicle preparation service, manufacturer, or transporter shall bear identifying numbers, and no special purpose plates issued to other vehicle preparation services, manufacturers, or transporters shall bear the same number.

(4) The commissioner is authorized and empowered to design, issue and regulate the use of temporary plates for use in cases where dealer plates cannot be used. Upon the depletion of the department's current inventory of temporary plates, the department shall redesign the temporary plates in such a manner as determined by the commissioner as will permit the conspicuous display of individual distinctive alpha-numerical characters. Temporary plates may be issued for a period of thirty (30) days. The fee for the thirty-day plate is five dollars and fifty cents ($5.50). No person may operate a motor vehicle for more than sixty (60) days with the temporary plate. Nothing in this section shall be construed as a grant of authority for the issuance or use of the temporary plates on trucks or truck tractors being used or tested under load conditions over the streets and highways of this state.

(d)(1) Registration plates issued under this subsection (d) may only be issued to dealers as provided for in this subsection (d).

(2) Any dealer owning a vehicle suitable for special event services may, either in person or through a duly authorized agent, employee, or lessee,

operate or move the vehicle upon any highway of the state without registering such vehicle, upon condition that the vehicle display a special event plate issued to that owner as prescribed in this part.

(3) A vehicle is suitable for special event services if it:

(A) Is rented to legal entities of this state, or any political subdivision thereof, pursuant to a rental agreement;

(B) Only travels in this state during the rental period;

(C) Is capable of holding fifteen (15) or more passengers; and

(D) Has fewer than two thousand five hundred (2,500) miles on the odometer.

(4) Notwithstanding any statute to the contrary, a vehicle meeting all of the criteria of a special event services vehicle pursuant to subdivision (d)(3) shall not be eligible to use a special purpose dealer plate.

(5) The special event plate shall have the legend "TENN" at the top of the plate and shall have "Special Event" at the bottom of the plate. The legend shall contain the letters "SE" and five (5) numbers. The special event plates shall have a light blue background with black letters and numbers.

(6) Any dealer who has a valid number assigned by the motor vehicle commission may make application to the department for one (1) or more special event plates and shall provide sufficient information as reasonably requested by the commissioner to show how many vehicles are suitable for special event services. The fee for such plate shall be more than one hundred fifty-two dollars and sixty-three cents ($152.63). No dealer shall be permitted to purchase more than one hundred (100) special event plates during a registration year.

(e)(1) Except as provided in subdivision (e)(2), the special purpose plates issued under this section shall expire on May 31 of each year, and a new plate or plates for the ensuing year may be obtained by the person to whom the expired plate or plates were issued upon application to the registrar of motor vehicles, or the registrar's deputy as provided by law. Issuance of the plates shall begin May 1 of each year, upon payment of the fee provided by law, and proof by the applicant that the applicant is still engaged in business as a manufacturer, transporter, dealer or vehicle preparation service.

(2) In the year in which the issuance of such plates shall be valid for a period of fourteen (14) months pursuant to this section, the fee provided by law shall be computed as seven-sixths ($^{7}/_{6}$) times the regular annual fee. The intent of this subdivision (e)(2) is to provide that the annual fee be increased by a pro-rata portion to cover the additional two (2) months fee during the transition year of implementation of this new schedule. Issuance of the plates pursuant to this subdivision (e)(2) shall begin on March 1 of the year so affected, upon payment of the appropriate fee, and proof by the applicant that such applicant is still engaged in business as a manufacturer, transporter, dealer or vehicle preparation service.

(f) The commissioner is authorized and empowered to promulgate rules and regulations for the administration of this section.

55-4-227. OEM headquarters company.

(a) Registration plates issued under the OEM headquarters company category pursuant to § 55-4-203(a) may be issued to any OEM headquarters company for purposes of registering any OEM headquarters company vehicle.

Eligible employees and eligible family members may operate an OEM headquarters company vehicle on any highway within this state upon displaying thereon plates issued to the OEM headquarters company as provided in this part. A registration plate issued under the OEM headquarters company category may only be transferred to another qualified OEM headquarters company vehicle.

(b) The special purpose OEM headquarters company plates provided for in this section shall be designed by the commissioner in consultation with the OEM headquarters company making application for the plate. All special purpose plates issued to any OEM headquarters company shall bear identifying numbers and shall display the word "Tennessee" or an abbreviation thereof.

(c) This registration shall be valid so long as title to the OEM headquarters company vehicle is vested in the OEM headquarters company and shall not be subject to the provisions of this chapter requiring annual registration.

(d) Any OEM headquarters company may make application to the department for the special purpose plates authorized by this section. The plates shall be free of charge, as provided in § 55-4-204.

(e) Any motor vehicle registered for use as an OEM headquarters company vehicle under this section shall, at the termination of such use, be sold at an auction limited to any dealer who sells new or unused motor vehicles of the same line-make as the motor vehicle to be sold.

55-4-228. Special purpose nonprofit organization plate.

(a) Any nonprofit organization owning any vehicle that may be legally operated upon the streets or highways of this state with a regular vehicle registration may, through an authorized agent or employee, operate or move the vehicle upon any highway of the state without registering the vehicle, upon condition that the vehicle display a special purpose plate issued to that owner as prescribed in this section.

(b) The special purpose nonprofit organization plate shall have the legend "TENN" at the top of the plate and shall have "nonprofit organization" at the bottom of the plate. The legend shall contain the letters "CVPT" and three (3) numbers. The special purpose nonprofit organization plate shall have a purple background and white letters and numbers.

(c) A nonprofit organization may make application to the department for one (1) or more special purpose nonprofit organization plates and shall provide sufficient information as reasonably requested by the commissioner to show that the applicant is a nonprofit organization. The fee for each special purpose plate is forty-seven dollars and thirty cents ($47.30), and the fee for any plates in addition to the first plate is twenty-three dollars and sixty-five cents ($23.65) for each additional plate. No nonprofit organization shall be permitted to purchase more than three (3) nonprofit organization plates each year.

(d) A special purpose nonprofit organization plate may be used in the place of a regular vehicle registration to operate or move the vehicle upon any highway of the state without registering such vehicle, solely for the following purposes:

(1) To transport the vehicle between a prior or subsequent owner and the nonprofit organization;

(2) To transport the vehicle between the nonprofit organization and a

location where cleaning, repairing, or preparation is performed; or

(3) To test the vehicle within a twenty-mile radius of the location where the cleaning, repairing, or preparation is performed.

(e) A special purpose nonprofit organization plate may be used solely for vehicles that were donated to the nonprofit organization with the intent that the vehicle be transferred to a subsequent owner. This section does not apply to vehicles used in a nonprofit organization's daily operations.

(f) The special purpose plates issued under this section shall expire on May 31 of each year, and a new plate or plates for the ensuing year may be obtained by the person to whom the expired plate or plates were issued upon application to the department or any county clerk within the state. Issuance of the plates shall begin May 1 of each year, upon payment of the fee provided by law, and proof by the applicant that the applicant continues to be a nonprofit organization.

(g) For purposes of this section, "nonprofit organization" means an organization that has received a determination of exemption from the internal revenue service under the Internal Revenue Code § 501(c)(3) (26 U.S.C. § 501(c)(3)).

55-4-229. Legislator Emeritus.

(a) A member of the general assembly, or a former member of the general assembly, who is deemed by this section to have emeritus status after having served in the general assembly eight (8) or more years, upon complying with the title and registration law and upon payment of the regular license fee appropriate to the vehicle's design or use as prescribed in this chapter, plus payment of the additional fee provided for in § 55-4-204, shall be issued a registration plate as provided for in this part.

(b) The design on the Legislator Emeritus special purpose license plates shall be distinguishable from the special purpose license plates authorized by § 55-4-220 for members or former members of the general assembly. There shall be an image of the state capitol on the left half of the plate and the plate shall bear the legend "Legislator Emeritus".

(c) The special purpose license plates shall be delivered to the several county clerks for issuance during each registration renewal period as provided in § 55-4-207, except that the registrar of motor vehicles may make direct issue of the plates to the members or former members upon proper application being made, if the plates can be prepared for direct issuance prior to March 1.

(d) This section shall not be construed to mean that any member or former member shall be prevented from exchanging a regular type plate for one of special design in the course of a given registration year.

55-4-230. Tennessee Police Benevolent Association.

(a) An owner or lessee of a motor vehicle who is a resident of this state and who is certified as a member of the Tennessee Police Benevolent Association, upon complying with state motor vehicle laws relating to registration and licensing of motor vehicles, and paying the regular fee applicable to the motor vehicle and the fee provided for in § 55-4-204, shall be issued a Tennessee Police Benevolent Association cultural license plate for a motor vehicle authorized by § 55-4-210(c).

(b)(1) The application for these license plates shall be accompanied by a statement from the Tennessee Police Benevolent Association, certifying the

applicant to be a member of this organization.

(2) This application shall only be permitted to full-time paid or retired law enforcement officers who are members of the Tennessee Police Benevolent Association.

(c) The cultural plates provided for in this section shall bear the inscription "POLICE BENEVOLENT ASSOCIATION" or "PBA" and an appropriate standardized insignia of the organization.

(d)(1) Within thirty (30) days of terminating membership in the Tennessee Police Benevolent Association, an applicant to whom a cultural license plate has been issued pursuant to this section shall surrender the plate to the county clerk of the county of the applicant's residence.

(2) The Tennessee Police Benevolent Association shall provide biannually to the department the names and addresses of any persons who have terminated their membership in the Tennessee Police Benevolent Association, together with any other identifying information as the commissioner may require.

55-4-231. Retired Female Firefighter.

(a) A distinctive license plate is authorized for any female who is a retired firefighter, if the female is currently a resident of this state, is otherwise qualified to register and license a motor vehicle pursuant to this title, and submits proof of former membership in a firefighting unit from which the female is a bona fide retired member in good standing.

(b) The registration plates shall bear the legend "Retired Female Firefighter".

(c) The registration plate shall be issued upon payment of the regular registration fee pursuant to this chapter and an additional fee equal to the cost of actually designing and manufacturing the plates, and submission of information in accordance with subsection (d).

(d) For issuance of a license plate pursuant to this section, all applications shall contain information that the commissioner requires proving the eligibility of the applicant as a female who retired in good standing as a firefighter pursuant to subsection (a).

55-4-232 — 55-4-239. [Reserved.]

55-4-240. Supporters of the arts.

(a) An owner or lessee of a motor vehicle who is a resident of this state, upon complying with state motor vehicle laws relating to registration and licensing of motor vehicles, and paying the regular fee applicable to the motor vehicle and the fee provided for in § 55-4-204, shall be issued a cultural earmarked plate to support the arts for a motor vehicle authorized by § 55-4-210(c).

(b) The Tennessee arts commission is authorized to design multiple plates for issuance pursuant to this section; provided, that the minimum requirements of § 55-4-202(b)(3) shall apply to the issuance of each individual classification of the plates.

(c) The Tennessee arts commission shall determine the colors and pictorial representations to be included on the plates.

(d) Notwithstanding this part to the contrary, all revenues produced from the sale or renewal of cultural earmarked plates to support the arts, minus the

expense the state has incurred in manufacturing the plates, shall be allocated to the Tennessee arts commission.

55-4-241. Collegiate plates.

(a) Collegiate motor vehicle registration plates shall be the same size as regular passenger motor vehicle or motorcycle license plates and may be of the same color and design as regular license plates or may be of the colors and contain the logo or other distinctive design of the appropriate college or university. The commissioner, after consultation with the appropriate college or university, shall determine the colors and design for each classification of collegiate plates.

(b) Applicants may elect to personalize collegiate plates pursuant to § 55-4-214.

55-4-242. Penn State University alumnus.

(a) An owner or lessee of a motor vehicle who is a resident of this state, upon complying with state motor vehicle laws relating to registration and licensing of motor vehicles, and paying the regular fee applicable to the motor vehicle and the fee provided for in § 55-4-204, shall be issued a Penn State University collegiate license plate for a motor vehicle authorized by § 55-4-210(c).

(b) The collegiate plates provided for in this section shall be of the colors and contain the logo of Penn State University.

55-4-243. University of Florida alumnus.

(a) An owner or lessee of a motor vehicle who is a resident of this state, upon complying with state motor vehicle laws relating to registration and licensing of motor vehicles, and paying the regular fee applicable to the motor vehicle and the fee provided for in § 55-4-204, shall be issued a University of Florida collegiate license plate for a motor vehicle authorized by § 55-4-210(c).

(b) The collegiate plates provided for in this section shall be of the colors and contain the logo of the University of Florida.

55-4-244. University of Arkansas alumnus.

(a) An owner or lessee of a motor vehicle who is a resident of this state, upon complying with state motor vehicle laws relating to registration and licensing of motor vehicles, and paying the regular fee applicable to the motor vehicle and the fee provided for in § 55-4-204, shall be issued a University of Arkansas collegiate license plate for a motor vehicle authorized by § 55-4-210(c).

(b) The collegiate plates provided for in this section shall be of the colors and contain the logo of the University of Arkansas.

55-4-245. University of Mississippi alumnus.

(a) An owner or lessee of a motor vehicle who is a resident of this state, upon complying with state motor vehicle laws relating to registration and licensing of motor vehicles, and paying the regular fee applicable to the motor vehicle and the fee provided for in § 55-4-204, shall be issued a University of Mississippi collegiate license plate for a motor vehicle authorized by

§ 55-4-210(c).

(b) The collegiate plates provided for in this section shall be of the colors and contain the logo of the University of Mississippi.

55-4-246. Cumberland University.

(a) An owner or lessee of a motor vehicle who is a resident of this state, upon complying with state motor vehicle laws relating to registration and licensing of motor vehicles, and paying the regular fee applicable to the motor vehicle and the fee provided for in § 55-4-204, shall be issued a Cumberland University collegiate license plate for a motor vehicle authorized by § 55-4-210(c).

(b) The collegiate plates provided for in this section shall be of the colors and contain the logo of Cumberland University.

55-4-247 — 55-4-249. [Reserved.]

55-4-250. Memorial registration plates.

Memorial registration plates shall be issued in accordance with this part and § 55-4-261 pertaining to former prisoners of war, § 55-4-258 pertaining to recipients of the Congressional Medal of Honor, § 55-4-259 pertaining to recipients of the Distinguished Service Cross, Air Force Cross, Navy Cross, Silver Star, Bronze Star (Valor), Air Medal (Valor), and Distinguished Flying Cross, and § 55-4-256 pertaining to disabled veterans.

55-4-251. Annual verification process for memorial registration plates and military registration plates.

(a) This section shall apply to memorial registration plates described in § 55-4-203(c)(4) and military registration plates described in § 55-4-203(c)(5)(E).

(b) Each registration plate to which this section applies shall be subject to a verification process that shall occur annually upon the renewal of the plate, if applicable, or upon such other time as determined by the department. The department may prescribe the form and manner of submitting any proof or documentation required by this section; provided, that the holder shall be permitted to submit such proof or documentation by mail or in person.

(c) At the time of annual verification, the holder of the plate shall submit satisfactory proof that the holder is a resident of the county in which the vehicle is registered, and any other proof that the department may require showing that the holder is complying with state motor vehicle laws relating to registration.

(d) If the holder of the plate is deceased as of the date of annual verification, and if the copy of the death certificate of the deceased holder has not been previously submitted, then the surviving spouse of the deceased or the personal representative of the deceased holder's estate shall submit a copy of the death certificate at the time of the annual verification.

(e) If any surviving spouse of a deceased holder of a plate wishes to continue the issuance of, and retain the plate formerly held by the deceased holder, or apply for issuance of the plate to which the deceased spouse was entitled, as authorized by § 55-4-261, § 55-4-257, § 55-4-263, § 55-4-252, or § 55-4-253, as applicable, then the surviving spouse shall do so at the time of the annual

verification. The surviving spouse shall submit a copy of the death certificate of the deceased holder and documentation showing the surviving spouse is a resident of the county for which the vehicle that is owned or leased by the deceased holder or surviving spouse is registered, and shall pay any applicable fees.

55-4-252. United States military — Active, retired and honorably discharged members — Military reserves.

(a) Registration plates are authorized for active, retired and honorably discharged members of the United States military and the United States military reserves in good standing. The plates are approved for display on motor vehicles that are authorized by § 55-4-210(c) and that are owned and operated, or leased by, a member or member's spouse. A surviving spouse of a deceased retired or honorably discharged member or of a member who died while on active duty, upon complying with state motor vehicle laws relating to registration and licensing of motor vehicles and upon paying the regular fee applicable to the vehicle and the fee prescribed by § 55-4-204, shall be issued a registration plate pursuant to this section, until the surviving spouse remarries.

(b) The registration plates shall be of a distinctive design as approved by the commissioner and shall include the appropriate emblem of the branch of service of the recipient of the plate. The registration plates shall also contain the words "Volunteer State" at the bottom of the plates.

(c) The registration plate authorized pursuant to this section shall be issued upon payment of the regular registration fee pursuant to this chapter and the additional fee prescribed by § 55-4-204.

(d)(1) All applications pursuant to this section shall contain all information that the commissioner requires to prove eligibility for issuance of a license plate pursuant to this section; provided, that, notwithstanding any law to the contrary, a retired member of the United States military or the United States military reserves shall be required to submit retirement status documentation only when initially applying for registration plates under this section and subsequent registration plates under this section shall be issued to that person without the repeated presentation of retirement status documentation. Eligibility for the cultural registration plate for United States reserve forces shall be determined by the department in consultation with the appropriate information on current and valid DD Form 2A (Res), DD Form 2N (Res), DD Form 2MC (Res), DD Form 2AF (Res), DD Form 2CG (Res) (Armed Forces of the United States Identification Card), citing that the request is submitted by a member of the United States reserve forces, or current and valid stationing orders citing that the request is submitted by an active duty member of the United States reserve forces.

(2) A retired member of the United States military and the United States military reserves in good standing who has participated in full or voluntary early retirement authorized by the branch of the United States armed forces in which the retired member served shall also be eligible for the issuance of a cultural plate pursuant to this section. Eligibility for the cultural registration plates for retired members of the United States armed forces who have participated in full or voluntary early retirement shall be determined by the department, in consultation with the appropriate information on

these retired members' "Certificate of Release of Discharge from Active Duty" or on the current and valid forms enumerated in subdivision (d)(1). The retired members' plate shall be distinguished by a retired decal placed below the branch of service located on the left side of the license plate.

(3) An active duty member of the United States military and the United States military reserves in good standing shall also be eligible for the issuance of a cultural plate pursuant to this section. Eligibility for the cultural registration plates for active duty members of the United States armed forces shall be determined by the department, in consultation with the appropriate information on the active duty member's stationing orders required in subdivision (d)(1).

(4) An honorably discharged member of the United States military and the United States military reserves in good standing shall also be eligible for the issuance of a cultural plate pursuant to this section. Eligibility for the cultural registration plates for honorably discharged members of the United States armed forces shall be determined by the department and by consulting the appropriate information on the DD214 form. An honorably discharged member's plate shall be distinguished by an honorably discharged decal placed below the branch of service located on the left side of the license plate.

(e) Each recipient of a military plate issued pursuant to this section may apply an appropriate decal to the plate that designates the military unit in which the recipient served and/or the purpose for which the plate has been issued. The decal, and the placement of the decal, shall be subject to the approval of the commissioners of revenue and veterans services. The cost of this decal shall be borne by the recipient of the plate wishing to apply the decal.

55-4-253. Honorably discharged veterans.

(a) An owner or lessee of a motor vehicle who is a resident of this state and who is an honorably discharged veteran of the United States armed forces, or a civilian veteran of the United States army corps of engineers, upon complying with state motor vehicle laws relating to registration and licensing of motor vehicles and upon paying the regular fee applicable to the motor vehicle and the fee provided in § 55-4-204, shall be issued an honorably discharged veteran registration plate for a motor vehicle authorized by § 55-4-210(c). A surviving spouse of such a deceased honorably discharged veteran, upon complying with state motor vehicle laws relating to registration and licensing of motor vehicles, upon paying the regular fee applicable to the vehicle and the fee prescribed by § 55-4-204, and upon providing a copy of the death certificate of the deceased honorably discharged veteran, shall be issued a registration plate pursuant to this section, until the surviving spouse remarries.

(b) All applications pursuant to this section shall be accompanied by orders or a statement of discharge from the appropriate branch of the United States armed forces classifying the applicant as an honorably discharged veteran, or by orders or official documentation from the United States army corps of engineers classifying the applicant as a civilian veteran; provided, that, notwithstanding any law to the contrary, an honorably discharged veteran of the United States armed forces or a surviving spouse of an honorably discharged veteran of the United States armed forces shall be required to

submit the required documentation only when initially applying for registration plates under this section and subsequent registration plates under this section shall be issued to that person without the repeated presentation of the required documentation. This subsection (b) shall not apply in the case of an application by a surviving spouse in which the deceased honorably discharged veteran had been issued a license plate or license plates under this section.

(c)(1) The registration plates provided for in this section shall be designed in consultation with the commissioner of veterans services.

(2) The design of registration plates that are issued pursuant to this section shall bear the name of the county of issue on the lower edge of the tag.

(3) For honorably discharged veterans and civilian veterans, the American flag shall be in the center of the license plate.

(4)(A) For honorably discharged veterans and civilian veterans of Vietnam, the center emblem shall be the American flag. A Southeast Asia campaign medal or appropriate civilian documentation shall have been awarded in order to obtain the Vietnam Veteran plate.

(B) For honorably discharged veterans and civilian veterans who served during the time that Vietnam occurred but who do not qualify for issuance of the Vietnam Veteran plate, the American flag shall be in the center of the license plate and the strip along the bottom of the license plate shall read "Vietnam Era Veteran." Nothing in this subdivision (c)(4)(B) prohibits any veteran or civilian veteran who served during Vietnam from requesting issuance of the honorably discharged veteran plate that is authorized by subsection (a).

(5)(A) For veterans and civilian veterans of World War II, the strip along the bottom of the license plate shall read "WW II Veteran," and the symbol on the left shall be the Honorable Service Lapel Pin, also known as the ruptured duck. Proof of honorable military or civilian service between December 7, 1941, and December 31, 1946, shall be required to obtain this plate.

(B) For honorably discharged veterans and civilian veterans who served during the time that World War II occurred but who do not qualify for issuance of the World War II Veteran plate, the American flag shall be in the center of the license plate and the strip along the bottom of the license plate shall read "World War II Era Veteran." Nothing in this subdivision (c)(5)(B) prohibits any veteran or civilian veteran who served during World War II from requesting issuance of the honorably discharged veteran plate that is authorized by subsection (a).

(6)(A) For veterans and civilian veterans of the Korean War, the strip along the bottom of the license plate shall read "Korean War Veteran," and the symbol on the left shall be the American flag. A Korean Service Medal shall have been awarded for an honorably discharged veteran, or appropriate civilian documentation, to obtain this plate.

(B) For honorably discharged veterans and civilian veterans who served during the time that the Korean War occurred but who do not qualify for issuance of the Korean War Veteran plate, the American flag shall be in the center of the license plate and the strip along the bottom of the license plate shall read "Korean War Era Veteran." Nothing in this subdivision (c)(6)(B) prohibits any veteran or civilian veteran who served during the Korean War from requesting issuance of the honorably dis-

charged veteran plate that is authorized by subsection (a).

(7)(A) For veterans and civilian veterans of Operation Desert Storm, the strip along the bottom of the license plate shall read "Desert Storm Veteran," and the symbol on the left shall be the American flag. Award of the Southwest Asia Service Medal and proof of honorable service, or appropriate civilian documentation, shall be required for a veteran or civilian veteran to obtain this plate.

(B) For honorably discharged veterans and civilian veterans who served during the time that Operation Desert Storm occurred but who do not qualify for issuance of the Desert Storm Veteran plate, the American flag shall be in the center of the license plate and the strip along the bottom of the license plate shall read "Desert Storm Era Veteran." Nothing in this subdivision (c)(7)(B) prohibits any veteran or civilian veteran who served during Operation Desert Storm from requesting issuance of the honorably discharged veteran plate that is authorized by subsection (a).

(8)(A) For veterans and civilian veterans of the peacekeeping mission in Bosnia, the plate shall be designed by the commissioner of veterans services in consultation with the commissioner of revenue. The commissioner of veterans services shall also set proof of service requirements for honorably discharged veterans and civilian veterans to obtain this plate.

(B) For honorably discharged veterans and civilian veterans who served during the time that the peacekeeping mission in Bosnia occurred but who do not qualify for issuance of the Bosnia Veteran plate, the American flag shall be in the center of the license plate and the strip along the bottom of the license plate shall read "Bosnia Era Veteran." Nothing in this subdivision (c)(8)(B) prohibits any veteran or civilian veteran who served during the peacekeeping mission in Bosnia from requesting issuance of the honorably discharged veteran plate that is authorized by subsection (a).

(9)(A) For honorably discharged veterans of Operation Iraqi Freedom and active members of the United States armed forces who served in Operation Iraqi Freedom, the strip along the bottom of the license plate shall read "Operation Iraqi Freedom," and the symbol on the left shall be the American flag, below which shall appear the word "VETERAN" in letters of an appropriate size. The commissioner of veterans services shall also set proof of service requirements for veterans who served in Operation Iraqi Freedom to obtain the plate.

(B) For honorably discharged veterans who served during the time that Operation Iraqi Freedom occurred but who do not qualify for issuance of the Operation Iraqi Freedom plate, the American flag shall be in the center of the license plate and the strip along the bottom of the license plate shall read "Operation Iraqi Freedom Era." Nothing in this subdivision (c)(9)(B) prohibits any veteran who served during Operation Iraqi Freedom from requesting issuance of the honorably discharged veteran plate that is authorized by subsection (a).

(10)(A) For honorably discharged veterans of Operation Enduring Freedom and active members of the United States armed forces who served in Operation Enduring Freedom, the strip along the bottom of the license plate shall read "Operation Enduring Freedom," and the symbol on the left shall be the American flag, below which shall appear the word "VETERAN" in letters of an appropriate size. The commissioner of veterans services shall also set proof of service requirements for veterans who have

served in Operation Enduring Freedom to obtain the plate.

(B) For honorably discharged veterans who served during Operation Enduring Freedom but who do not qualify for issuance of the Operation Enduring Freedom plate, the American flag shall be in the center of the license plate and the strip along the bottom of the license plate shall read "Operation Enduring Freedom Era." Nothing in this subdivision (c)(10)(B) prohibits any veteran who served during Operation Enduring Freedom from requesting issuance of the honorably discharged veteran plate that is authorized by subsection (a).

(11)(A) For honorably discharged veterans of Operation New Dawn and active members of the United States armed forces who served in Operation New Dawn, the strip along the bottom of the license plate shall read "Operation New Dawn," and the symbol on the left shall be the American flag, below which shall appear the word "VETERAN" in letters of an appropriate size. The commissioner of veterans services shall also set proof of service requirements for veterans who have served in Operation New Dawn to obtain the plate.

(B) For honorably discharged veterans who served during Operation New Dawn but who do not qualify for issuance of the Operation New Dawn Veteran plate, the American flag shall be in the center of the license plate and the strip along the bottom of the license plate shall read "Operation New Dawn Era." Nothing in this subdivision (c)(11)(B) prohibits any veteran who served during Operation New Dawn from requesting issuance of the honorably discharged veteran plate that is authorized by subsection (a).

(12) For honorably discharged veterans who served during the period between the announcement of the Truman Doctrine on March 12, 1947, and the collapse of the Soviet Union on December 26, 1991, with this period being known as the Cold War, the American flag shall be in the center of the license plate and the strip along the bottom of the license plate shall read "Cold War Era Veteran." Nothing in this subdivision (c)(12) prohibits any veteran who served during this period from requesting issuance of the honorably discharged veteran plate that is authorized by subsection (a) or any other plate authorized by this subsection (c) for which the veteran qualifies.

(d) The commissioner of revenue is authorized to promulgate rules and regulations to effectuate the purposes of this section. All rules and regulations shall be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

55-4-254. United States reserve forces.

(a) A member of the United States reserve forces shall be issued a registration plate, upon request, for a motor vehicle authorized by § 55-4-210(c), upon complying with the title and registration laws and paying the regular fee applicable to the vehicle and the additional fee prescribed by § 55-4-204.

(b) The registration plates provided for in this section shall include an identification legend distinctive to members of the United States reserve forces. The legend shall read "US Reserve Forces." The registration number of the plates shall include the letters "US" and a unique identifying number.

(c) Eligibility for United States reserve forces registration plates shall be determined by the department in consultation with the appropriate informa-

tion on current and valid DD Form 2A (Res), DD Form 2N (Res), DD Form 2MC (Res), DD Form 2AF (Res) or DD Form 2CG (Res) (Armed Forces of the United States identification card), citing that the request is submitted by a member of the United States reserve forces.

55-4-255. National guard members.

(a) Special purpose and distinctive license plates are authorized for active, retired and honorably discharged members of the Tennessee national guard in good standing. The plates are approved for display on motor vehicles authorized by § 55-4-210(c) that are owned and operated or leased by a member or member's spouse. A surviving spouse of a national guard member, upon complying with state motor vehicle laws relating to registration and licensing of motor vehicles and upon paying the regular fee applicable to the vehicle and a revenue-neutral fee equal to the cost of producing the special purpose plate, may apply for issuance of a national guard registration plate pursuant to this section, which shall be valid until the surviving spouse remarries.

(b) The comissioner shall, with the advice of the adjutant general and the department's taxpayer and vehicle services division director, select an appropriate format for the special purpose plates to include an identification legend which is distinctive to their use and which complies with general registration requirements for vehicles licensed in this state. Additionally, the commissioner shall specify the date by which the adjutant general shall furnish the estimate of the necessary number of plates to be manufactured for use in a given registration year, and shall prescribe the time and manner in which the adjutant general shall furnish lists of national guard members. The lists shall be suitable to the needs of the department and county clerks and shall comply with the requirements of the law for registering vehicles.

(c) Chapters 1-6 of this title relating to titling and registering motor vehicles shall apply with respect to the issuance and use of these special purpose plates, except as otherwise provided in this section.

(d)(1) The fees imposed for registrations using the special purpose plates shall be as follows:

(A) For enlisted national guard members there shall be no tax (fee) for registering the first vehicle and the regular license fee shall be collected for any additional vehicles;

(B) For national guard officers the tax (fee) shall be the regular license fee for each vehicle;

(C) For national guard retirees, the initial issuance of a special purpose plate and renewals shall be made upon payment of the regular registration fee applicable to the vehicle and a fee equal to the cost of producing the special purpose plate; provided, that the issuance of the plates shall be revenue neutral; and

(D) For honorably discharged national guard members, the initial issuance of a special purpose plate and renewals shall be made upon payment of the regular registration fee applicable to the vehicle and a fee equal to the cost of producing the special purpose plate; provided, however, that the issuance of the plates shall be revenue neutral.

(2) The county clerk in effecting registrations through the use of these special purpose plates shall collect other fees that have application for all registrations, such as service charges provided in § 55-6-104 and reassign-

ment fees when applicable.

(e) If a holder of a special purpose plate is discharged from the national guard prior to the expiration of the registration under which the plate was issued, the special purpose plate may remain valid for display on the vehicle until the expiration date of the registration, unless it was issued under the tax-exempt allowance. All plates that are issued under the tax-exempt allowance shall be surrendered to the national guard when the holders of the plates are discharged from service.

(f) This authority for the use of special purpose license plates is not intended to allow the holders of the special purpose license plate to operate vehicles on which they are displayed in violation of state or local laws or ordinances which govern and relate to the use of motor vehicles.

(g) All applications from retired national guard members shall contain information as the commissioner shall require to prove eligibility for issuance of a license plate. Eligibility for a special purpose registration plate for national guard retirees shall be determined by the department, in consultation with the appropriate information on an applicant's current and valid armed forces of Tennessee identification card, citing that the request is submitted by a retired member of the Tennessee national guard.

(h) All applications from honorably discharged national guard members shall contain such information as the commissioner shall require to prove eligibility for issuance of a license plate. Eligibility for a special purpose registration plate for honorably discharged national guard members shall be determined by the department, in consultation with the appropriate information on an applicant's current and valid armed forces of Tennessee identification card, citing that the request is submitted by an honorably discharged member of the Tennessee national guard.

(i) An application by a surviving spouse for a national guard license plate shall be accompanied by such information as the commissioner shall require to prove the member's eligibility for issuance of the license plate, to include a department of defense form 214 (DD 214) or an NGB form 22, showing adequate proof of service, and a copy of the relevant marriage certificate and death certificate, as further evidence of a surviving spouse's eligibility.

55-4-256. Disabled veterans.

(a)(1) The department shall provide and issue, free of charge, to each disabled veteran in this state, registration and license plates for any motor vehicle authorized by § 55-4-210(c) that is registered in the name of or leased by a disabled veteran, or by the disabled veteran and the spouse of the disabled veteran, including, but not limited to, a motor home containing life support equipment; provided, that the authorized motor vehicle or motor home shall not be used for rehire or for any other commercial purpose.

(2) One (1) disabled veteran memorial license plate may be issued free of charge to any qualified applicant pursuant to this section; provided, that one (1) additional plate may be obtained by any eligible person upon payment of the regular registration fee for plates, as prescribed under § 55-4-111, and payment of one-half (½) of the fee provided for in § 55-4-204(c)(1). Additional disabled veteran license plates may be obtained by any disabled veteran upon payment of the regular license fee for plates, as prescribed under § 55-4-111, plus the payment of a fee equal to the cost of actually producing

the plate.

(3) For the purposes of this section, "disabled veteran" means a veteran having served in the military, naval, marine or air services of the United States, who is a resident of Tennessee and who is entitled to compensation under the laws administered by the veterans' administration for any of the following due to disability incurred in or aggravated by active military, naval, marine or air services of the United States:

(A) Loss or permanent loss of use of one (1) or both feet;

(B) Loss or permanent loss of use of one (1) or both hands; or

(C) Permanent impairment of vision of both eyes of the following status: central visual acuity of 20/200 or less in the better eye, with corrective glasses, or central visual acuity of more than 20/200 if there is a field defect in which the peripheral field has contracted to such an extent that the widest diameter of visual field subtends an angular distance no greater than twenty degrees (20°) in the better eye.

(b) Any disabled veteran in this state who has any other service-connected disability that is determined by the veterans' administration to constitute a one hundred percent (100%) permanent total disability shall be entitled, upon compliance with the registration laws and without being required to pay a fee, to the issuance of the registration plates provided for by this section.

(c) Disabled veteran registration plates shall bear:

(1) The words "Disabled Veteran";

(2) A registration number composed of the prefix "DV" and a unique identifying number; and

(3) A representation of the United States flag in the background.

(d) A disabled veteran who is entitled under this section to be issued a memorial registration plate, free of charge, may elect in the alternative for the issuance of a registration plate for holders of the Purple Heart, free of charge, for one (1) motor vehicle authorized by § 55-4-210(c) or one (1) motor home, as defined in subdivision (a)(1), which is owned or leased by the disabled veteran; provided, that a disabled veteran shall meet the requirements of § 55-4-257(c) in order to be eligible for the issuance of a registration plate for a holder of the Purple Heart.

55-4-257. Holders of the Purple Heart.

(a) A holder of the Purple Heart shall be issued a special memorial registration plate upon request, upon complying with the title and registration law.

(b) The special plates provided for in this section shall be issued in conformity with § 55-4-203, shall include an identification legend distinctive to the holders of the Purple Heart, and be designed by the commissioner in consultation with the department's taxpayer and vehicle services director. The legend shall read "Purple Heart Veteran, Combat Wounded." The registration number of the special plate shall include the letters "PH" and a unique identifying number, whereby the total characters do not exceed the sum of seven (7).

(c) Eligibility for the special memorial registration plate shall be determined by the department in consultation with the appropriate information on the DD214 form, or in a case of military service predating 1950, in consultation with appropriate information on the equivalent form or on other official documentation, citing that the request is submitted by a holder of the Purple

Heart.

(d) Persons eligible for such special memorial registration plates shall be eligible to apply for plates on a vehicle owned or leased by the person or owned or leased by a company and furnished to the person; provided, that all appropriate fees, including the supplemental twenty-five-dollar special fee, if still applicable to this category of plates, shall be paid. Special memorial registration plates for holders of the Purple Heart that are issued or renewed on or after July 1, 2007, shall not be subject to the twenty-five-dollar special fee, but shall be free of charge pursuant to § 55-4-204(b), except as provided in subdivision (e)(2).

(e)(1) A disabled veteran who is entitled to be issued a special memorial registration plate, free of charge, pursuant to § 55-4-256, may elect in the alternative for the issuance of one (1) special memorial registration plate for holders of the Purple Heart, free of charge, for one (1) motor vehicle or one (1) recreational vehicle owned or leased by that disabled veteran; provided, that a disabled veteran shall meet the requirements of subsection (c) in order to be eligible for the issuance of a special memorial registration plate for holders of the Purple Heart.

(2) One (1) additional plate may be obtained by any eligible disabled veteran upon payment of the regular registration fee for plates, as prescribed under § 55-4-111, and payment of one-half (½) of the fee provided for in § 55-4-204(c)(1). Additional plates may be obtained by any person entitled to receive the holders of the Purple Heart registration plate upon payment of the regular registration fee for plates, as prescribed under § 55-4-111, and the fee provided for in § 55-4-204(c)(1).

(f)(1) Upon the death of the spouse who was entitled to receive a holder of the Purple Heart registration plate, the surviving spouse shall be entitled to receive a Purple Heart registration plate for any motor vehicle or recreational vehicle owned or leased by the surviving spouse. The application shall be accompanied by a copy of the death certificate. To be entitled to the plate, the surviving spouse shall pay the regular registration fee for plates, as prescribed under § 55-4-111, and the fee provided for in § 55-4-204(c)(1).

(2) Plates issued to, or renewed by, surviving spouses under this section as it existed prior to May 19, 2014, shall not be subject to the regular registration fee or the cost of producing the plate, and shall be free of charge.

55-4-258. Congressional Medal of Honor recipients.

(a) Notwithstanding any other law to the contrary, the department shall provide and issue, free of charge, to each resident of this state who is a recipient of the Congressional Medal of Honor, upon presentation of proper application, Medal of Honor memorial registration plates for one (1) motor vehicle or motor home which is registered or leased for private use in the name of any one (1) recipient. For the purposes of this section, "private use" vehicle means any motor vehicle authorized by § 55-4-210(c) or motor home that is not used for rehire or for any other commercial purpose. One (1) additional plate may be obtained by any eligible recipient upon payment of the regular registration fee for plates, as prescribed under § 55-4-111, and payment of one-half (½) of the fee provided for in § 55-4-204(c)(1). Additional plates may be obtained by any eligible recipient upon payment of the regular registration fee for plates, as prescribed under § 55-4-111, and the fee provided for in

§ 55-4-204(c)(1).

(b) The Medal of Honor memorial plates provided for in this section shall be the same as regular registration plates, but shall be of a distinctive design which denotes the importance of these distinguished veterans and the high regard in which this state holds the heroic recipients of the highest military decoration. The legend shall read "Medal of Honor." The registration number of the plate shall include the letters "CM" and a unique identifying number.

(c)(1) Notwithstanding any other law to the contrary, eligibility for the Medal of Honor memorial plate shall be determined by the department by consulting the appropriate information on the:

(A) DD214 form and a copy of the orders that awarded the medal or copy of the certificate or citation granting the medal, in the case of an applicant who has been discharged from the armed forces;

(B) Copy of the orders that awarded the medal or copy of the certificate or citation granting the medal, in the case of an applicant who has not been discharged from the armed forces; or

(C) A written communication from the department of veterans services, in the case of an applicant who does not possess the documentation required by subdivision (c)(1)(A) or (c)(1)(B).

(2) The form, documentation or communication required by subdivision (c)(1) shall certify that the application for the plate is submitted by a recipient of the Congressional Medal of Honor.

(3) Any person issued a Medal of Honor plate under this chapter prior to June 21, 2013, shall submit to the department of revenue the appropriate information required by this subsection (c) within thirty (30) days after June 21, 2013. If any such person to whom a Medal of Honor plate has been issued does not comply with this subdivision (c)(3) or the department of revenue determines that the person is not eligible for the plate, the person shall surrender the plate to the county clerk of the county of the person's residence within thirty (30) days of noncompliance or determination of ineligibility, whichever is sooner.

55-4-259. Distinguished Service Cross, Navy Cross, Air Force Cross, Silver Star, Distinguished Flying Cross, Bronze Star (Valor), and Air Medal (Valor) recipients.

(a) The department shall provide and issue, free of charge, to each resident of this state who is a recipient of the Distinguished Service Cross, the Navy Cross, the Air Force Cross, the Silver Star, the Distinguished Flying Cross, the Bronze Star (Valor), or the Air Medal (Valor), upon presentation of proper application, a memorial registration plate for one (1) motor vehicle or motor home which is registered or leased for private use in the name of any one (1) recipient. One (1) additional plate may be obtained by any eligible recipient upon payment of the regular registration fee for plates, as prescribed under § 55-4-111, and payment of one-half (½) of the fee provided for in § 55-4-204(c)(1). Additional plates may be obtained by any eligible recipient upon payment of the regular registration fee applicable for plates, as prescribed under § 55-4-111, and the fee provided for in § 55-4-204(c)(1). For the purposes of this section, "private use" vehicle means any motor vehicle authorized by § 55-4-210(c) or motor home that is not used for rehire or for any other commercial purpose.

(b)(1) The memorial plates provided for in this section shall be the same as regular registration plates, but shall be of a distinctive design which denotes the importance of these distinguished veterans and the high regard in which this state holds the courageous recipients of these military decorations.

(2)(A) On and after May 19, 2014, no plate on which the legend reads "Legion of Valor" shall be issued to any person entitled to a memorial or military cultural registration plate under this chapter, including any recipient of the Distinguished Service Cross, Navy Cross or Air Force Cross. A recipient of the Distinguished Service Cross, Navy Cross or Air Force Cross shall be issued a distinctive Distinguished Service Cross, Navy Cross or Air Force Cross memorial registration plate, as appropriate.

(B) The Distinguished Service Cross plates provided for in this section shall include an identification legend distinctive to recipients of the Distinguished Service Cross. The legend shall read "Distinguished Service Cross." The registration number of the plate shall include the letters "SC" and a unique identifying number.

(C) The Navy Cross plates provided for in this section shall include an identification legend distinctive to recipients of the Navy Cross. The legend shall read "Navy Cross." The registration number of the plate shall include the letters "NC" and a unique identifying number.

(D) The Air Force Cross plates provided for in this section shall include an identification legend distinctive to recipients of the Air Force Cross. The legend shall read "Air Force Cross." The registration number of the plate shall include the letters "AC" and a unique identifying number.

(3)(A) A recipient of the Silver Star, the Bronze Star (Valor), Air Medal (Valor), or the Distinguished Flying Cross shall be issued a distinctive Silver Star, Bronze Star (Valor), Air Medal (Valor), or Distinguished Flying Cross memorial plate, as appropriate.

(B) The Silver Star plates provided for in this section shall include an identification legend distinctive to recipients of the Silver Star. The legend shall read "Silver Star." The registration number of the plate shall include the letters "SS" and a unique identifying number.

(C) The Bronze Star (Valor) plates provided for in this section shall include an identification legend distinctive to recipients of the Bronze Star (Valor). The legend shall read "Bronze Star — Valor." The registration number of the plate shall include the letters "BSV" and a unique identifying number.

(D) The Air Medal (Valor) plates provided for in this section shall include an identification legend distinctive to recipients of the Air Medal (Valor). The legend shall read "Air Medal — Valor." The registration number of the plate shall include the letters "REV" and a unique identifying number.

(E) The Distinguished Flying Cross plates provided for in this section shall include an identification legend distinctive to recipients of the Distinguished Flying Cross. The legend shall read "Distinguished Flying Cross." The registration number of the plate shall include the letters "FC" and a unique identifying number.

(c)(1) Notwithstanding any provision of this section or any other law to the contrary, eligibility for the memorial plates provided for in this section shall be determined by the department by consulting the appropriate information on the:

(A) DD214 form and a copy of the orders that awarded the medal or copy of the certificate or citation granting the medal, in the case of an applicant who has been discharged from the armed forces;

(B) Copy of the orders that awarded the medal or copy of the certificate or citation granting the medal, in the case of an applicant who has not been discharged from the armed forces; or

(C) A written communication from the department of veterans services, in the case of an applicant who does not possess the documentation required by subdivision (c)(1)(A) or (c)(1)(B).

(2) The form, documentation, or communication required by subdivision (c)(1) shall certify that the application for the plate is submitted by a recipient of the military decorations described in this section, as appropriate.

55-4-260. Bronze Star (Meritorious) and Air Medal (Meritorious) recipients.

(a) A recipient of the Bronze Star (Meritorious) or the Air Medal (Meritorious) who is a resident of this state and who is an owner or lessee of a motor vehicle, upon complying with state motor vehicle laws relating to registration and licensing of motor vehicles and upon paying the regular registration fee for plates, as prescribed under § 55-4-111, and the fee provided for in § 55-4-204(c)(1), shall be issued a distinctive Air Medal (Meritorious) or Bronze Star (Meritorious) motor vehicle registration plate, as appropriate, for a motor vehicle authorized by § 55-4-210(c).

(b)(1) The Bronze Star (Meritorious) plates provided for in this section shall include an identification legend distinctive to recipients of the Bronze Star (Meritorious). The legend shall read "Bronze Star — Meritorious." The registration number of the plate shall include the letters "BSM" and a unique identifying number.

(2) The Air Medal (Meritorious) plates provided for in this section shall include an identification legend distinctive to recipients of the Air Medal (Meritorious). The legend shall read "Air Medal — Meritorious." The registration number of the plate shall include the letters "REM" and a unique identifying number.

(c) Eligibility for Air Medal (Meritorious) plates and Bronze Star (Meritorious) plates shall be determined by the department by consulting the appropriate information on the DD214 form, or in a case of military service predating 1950, in consultation with appropriate information on the equivalent form or on other official documentation, or a written communication from the department of veterans services, the form, documentation or communication certifying that the application for the plate is submitted by a recipient of the Bronze Star (Meritorious) or the Air Medal (Meritorious), as appropriate.

(d)(1) Any Air Medal (Meritorious or Valor) license plate issued to any recipient of the Air Medal prior to May 13, 2013, shall not be subject to the regular registration fee and shall be free of charge pursuant to § 55-4-204(b).

(2) Any Air Medal license plate initially issued to any recipient of the Air Medal (Meritorious) on or after May 13, 2013, shall be military cultural plates on and after such date; provided, that the plate shall be subject to the regular registration fee for plates, as prescribed under § 55-4-111, and the fee provided for in § 55-4-204(c)(1).

(3)(A) Any Air Medal license plates initially issued to any recipient of the Air Medal (Valor) on or after May 13, 2013, and prior to May 19, 2014, shall be memorial plates upon their first renewal on or after May 13, 2013; provided, that the plates shall not be subject to the regular registration fee and shall be free of charge pursuant to § 55-4-204(b).

(B) Any Air Medal license plates initially issued to any recipient of the Air Medal (Valor) on or after May 19, 2014, shall be memorial plates on and after May 19, 2014; provided, that the plates shall not be subject to the regular registration fee and shall be free of charge pursuant to § 55-4-204(b).

(4) Any Silver Star or Bronze Star (Valor) plates issued prior to May 19, 2014, shall be considered memorial plates upon their first renewal on or after May 19, 2014; provided, that such plates shall not be subject to the regular registration fee and shall be free of charge pursuant to § 55-4-204(b).

55-4-261. Former prisoners of war.

(a) An owner or lessee of a motor vehicle who is a resident of this state and who is a former prisoner of World War I, World War II, the Korean War, or the Vietnam War, or the surviving spouse of the former prisoner of war, upon complying with state motor vehicle laws relating to registration and licensing of motor vehicles and upon application, shall be issued one (1) license plate for any one (1) motor vehicle authorized by § 55-4-210(c), by the department, free of charge for life or, in the case of a surviving spouse, until that surviving spouse remarries. The application shall be accompanied by a certificate from the United States defense department stating the period of time that the applicant was a prisoner of war or, in the case of an application by a surviving spouse for continuation of a license plate or plates formerly held by a deceased spouse prisoner-of-war, a copy of the death certificate.

(b) The design of these memorial license plates as are issued shall be colored red, white, and blue so as to be similar in hue and intensity to the coloration of the United States Flag and shall carry the legend, "Former POW"

(c) One (1) additional plate may be obtained by any eligible person upon payment of the regular registration fee for plates, as prescribed under § 55-4-111, and payment of one-half (½) of the fee provided for in § 55-4-204(c)(1). Additional license plates may be obtained by any former prisoner of war or eligible surviving spouse upon payment of the regular license fee for plates, as prescribed under § 55-4-111, plus the payment of a fee equal to the cost of actually producing the plate.

55-4-262. Pearl Harbor survivors.

(a) A distinctive license plate is authorized for any person who was a member of the Armed Forces of the United States and who was present at Pearl Harbor, Hawaii on December 7, 1941, if the person is currently a resident of Tennessee, is the owner of a motor vehicle or motor home that is registered for private use, and is otherwise qualified to register and license a motor vehicle pursuant to this title. For the purposes of this section, "private use" vehicle means any motor vehicle authorized by § 55-4-210(c) or motor home that is not used for rehire or for any other commercial purpose.

(b) The registration plates provided for in this section shall be the same as regular registration plates but shall also bear the legend "PEARL HARBOR

SURVIVOR."

(c) The registration plate authorized pursuant to this section shall be issued upon payment of the regular registration fee pursuant to this chapter and the additional fee prescribed by § 55-4-204 and submission of information in accordance with subsection (d).

(d) All applications pursuant to this section shall contain such information as the commissioner shall require to prove eligibility for issuance of a license plate pursuant to this section.

55-4-263. Enemy evadees.

(a)(1) An owner or lessee of a motor vehicle who is a resident of this state and who is an "enemy evadee" certified as such by the department of veterans services, upon complying with state motor vehicle laws relating to registration and licensing of motor vehicles and upon paying the regular fee applicable to the vehicle and the fee prescribed by § 55-4-204, shall be issued a registration plate for a motor vehicle authorized by § 55-4-210(c).

(2) A surviving spouse of a deceased enemy evadee, upon complying with state motor vehicle laws relating to registration and licensing of motor vehicles and upon paying the regular fee applicable to the vehicle and the fee prescribed by § 55-4-204, shall be issued a registration plate pursuant to this section, until the surviving spouse remarries.

(3) The application shall be accompanied by orders or a statement of discharge from the appropriate branch of the United States armed forces, certified by the department of veterans services, classifying the applicant as an "enemy evadee," or in the case of an application by a surviving spouse for continuation of a license plate or plates formerly held by a deceased spouse enemy evadee, a copy of the death certificate.

(b)(1) The design of such license plates that are issued pursuant to this section shall be colored red, white and blue so as to be similar in hue and intensity to the coloration of the United States flag and shall bear the legend, "ENEMY EVADEE."

(2) The registration plates provided for in this section shall be designed in consultation with the commissioner of veterans services.

(c) For the purposes of this part, "enemy evadees" means veterans of the United States armed forces who, in time of war, successfully evaded capture behind enemy lines, and many of whom joined local indigenous personnel in resisting enemy forces.

55-4-264. Gold star family.

(a) The department, or any other department or agency of the state having jurisdiction, shall provide and issue, free of charge, to each eligible person in the state whose spouse, parent, sibling, or child served and died in the line of duty in the armed forces of the United States or its allies, or died as a result of injuries sustained in such service, upon presentation of proper application, a gold star family memorial registration plate for no more than one (1) motor vehicle or motor home; provided, that the vehicle or motor home is registered or leased for private use in the name of any one (1) recipient. For purposes of this section, "private use" vehicle means any motor vehicle authorized by § 55-4-210(c), or motor home that is not used for rehire or for any other commercial purpose.

(b) The gold star family plate shall include an identification legend distinc-

tive to gold star families. The legend shall read "Gold Star Family." The registration number of the plate shall include the letters "GS" and a unique identifying number. The plates shall be designed in consultation with the department of veterans services.

(c) Eligibility for gold star family plates shall be determined by the department by consulting appropriate documentation from the department of veterans services.

(d) Additional license plates may be obtained by any eligible person upon payment of the regular license fee for plates, as prescribed under § 55-4-111, plus the payment of a fee equal to the cost of actually producing the plate.

(e) Nothing in this section shall be construed as prohibiting the legal display of a gold star mothers memorial license plate issued or renewed prior to July 1, 2008, as evidence of registration, or the renewal of any such plate for such purpose.

55-4-265. Blue Star family.

(a) The department shall issue to each eligible person in the state whose spouse, parent, sibling or child is serving in the armed forces of the United States at the time of application, a blue star family military license plate for a motor vehicle authorized by § 55-4-210(c), upon the applicant complying with state motor vehicle laws relating to registration and licensing of motor vehicles and upon paying the regular fee applicable to the motor vehicle and the fee provided in § 55-4-204.

(b) The Blue Star family plate shall include an identification legend distinctive to Blue Star families. The legend shall read "Blue Star Family." The registration number of the plate shall include the letters "BS" and a unique identifying number. The plates shall be designed in consultation with the department of veterans services.

(c) Eligibility for Blue Star family plates shall be determined by the department by consulting appropriate documentation from the department of veterans services.

(d) Additional license plates may be obtained by any eligible person upon payment of the regular license fee for plates, as prescribed under § 55-4-111, plus the payment of a fee equal to the cost of actually producing the plate pursuant to § 55-4-204(c).

55-4-266. Surviving spouse decal — Fees.

(a) On and after May 19, 2014, any registration plate that is retained or renewed by, or initially issued to, a surviving spouse pursuant to § 55-4-252, § 55-4-253, § 55-4-255, § 55-4-257, § 55-4-261, § 55-4-263 or § 55-4-273, or § 55-4-274, as applicable, shall be distinguished by a surviving spouse decal. The design of the decal shall be subject to the approval of the commissioner of veterans services. The placement of the decal on the plate shall be subject to the approval of the commissioner of revenue; provided, that the decal shall be placed in a conspicuous manner.

(b) The department of revenue shall charge a one-time fee for issuance of the decal in an amount sufficient to defray the administrative costs of implementing this section. The one-time fee for a decal is in addition to any other applicable fees required for issuance of the plate to the surviving spouse pursuant to § 55-4-252, § 55-4-253, § 55-4-255, § 55-4-257, § 55-4-261, or

§ 55-4-263, § 55-4-273 or § 55-4-274; except, that a decal shall be issued free of charge to a surviving spouse who is issued a former prisoner of war registration plate free of charge under § 55-4-261 or a surviving spouse who, prior to May 19, 2014, was issued a Purple Heart registration plate free of charge under § 55-4-257. Upon application for a decal and payment of the one-time fee, the surviving spouse shall be entitled to issuance of the decal.

55-4-267. Tennessee woman veteran.

(a) A distinctive license plate is authorized for any woman who is a veteran, if the woman is currently a resident of this state and is otherwise qualified to register and license a motor vehicle pursuant to this title.

(b) The registration plates shall bear the legend "Tennessee Woman Veteran."

(c) The registration plate shall be issued upon payment of the regular registration fee pursuant to this chapter and the additional fee prescribed by § 55-4-204(c)(1), and submission of information in accordance with subsection (d).

(d) For issuance of a license plate pursuant to this section, all applications shall contain information that the commissioner requires proving the eligibility of the applicant as a woman who received an honorable discharge as a member of the armed services, as defined in § 49-4-928.

55-4-268. Submarine veteran.

(a)(1) An owner or lessee of a motor vehicle who is a resident of this state, who is an honorably discharged veteran of the United States armed forces having served on a submarine in the line of military duty, and whose submarine service has been certified by the department of veterans services, upon complying with state motor vehicle laws relating to registration and licensing of motor vehicles and upon paying the regular fee applicable to the vehicle and the fee prescribed by § 55-4-204, shall be issued a submarine veteran license plate for a motor vehicle authorized by § 55-4-210(c).

(2) The application for such plate shall be accompanied by documentation from the appropriate branch of the United States armed forces, certified by the department of veterans services, verifying that the applicant served on a submarine in the line of military duty as a member of the United States armed forces.

(b)(1) The design of such license plates that are issued pursuant to this section shall be colored red, white and blue so as to be similar in hue and intensity to the coloration of the United States flag and shall bear the legend, "SUBMARINE VETERAN."

(2) The license plates provided for in this section shall be designed in consultation with the commissioner of veterans services.

55-4-269. Tennessee state guard.

(a) An owner or lessee of a motor vehicle who is a resident of this state and who is certified as a member in good standing of the Tennessee state guard, upon complying with state motor vehicle laws relating to registration and licensing of motor vehicles and paying the regular fee applicable to the motor vehicle and the fee provided for in § 55-4-204, shall be issued a Tennessee state guard special purpose license plate for a motor vehicle authorized by

§ 55-4-210(c).

(b) The application for the plates shall be accompanied by a written statement from the adjutant general or the commanding officer of the Tennessee state guard certifying the applicant to be a member in good standing of the organization.

(c) The special purpose license plates shall bear the official seal of the Tennessee state guard and shall bear the language "Tennessee State Guard" in an appropriate design. The plates shall be designed in consultation with the adjutant general and the commanding officer of the Tennessee state guard.

(d)(1) Within thirty (30) days of terminating membership in the Tennessee state guard, a motor vehicle owner or lessee to whom a license plate has been issued pursuant to this section shall surrender the plate to the county clerk of the county of the applicant's residence.

(2) The adjutant general or the commanding officer of the Tennessee state guard shall provide biannually to the department the names and addresses of all persons whose membership in the Tennessee state guard has been terminated during such period, together with such other identifying information as the commissioner may require.

55-4-270. United States coast guard auxiliary.

(a) An owner or lessee of a motor vehicle who is a resident of this state and who is certified as a member in good standing of the United States coast guard auxiliary, upon complying with state motor vehicle laws relating to registration and licensing of motor vehicles and paying the regular fee applicable to the motor vehicle and the fee provided for in § 55-4-204, shall be issued a United States coast guard auxiliary special purpose license plate for a motor vehicle authorized by § 55-4-210(c).

(b) The application for the plates shall be accompanied by a written statement from the commanding officer of the United States coast guard auxiliary certifying the applicant to be a member in good standing of the organization.

(c) The special purpose license plates shall bear the official seal of the United States coast guard auxiliary and shall bear the language "U.S. Coast Guard Auxiliary" in an appropriate design. The plates shall be designed in consultation with the commanding officer of the United States coast guard auxiliary.

(d)(1) Within thirty (30) days of terminating membership in the United States coast guard auxiliary, a motor vehicle owner or lessee to whom a license plate has been issued pursuant to this section shall surrender the plate to the county clerk of the county of the applicant's residence.

(2) The commanding officer of the United States coast guard auxiliary shall provide biannually to the department the names and addresses of all persons whose membership in the United States coast guard auxiliary has been terminated during such period, together with such other identifying information as the commissioner may require.

55-4-271. Motorcycle registration plate for owner or lessee eligible for national guard plate, state guard plate, memorial plate, or military plate.

(a)(1) Subject to the requirements of § 55-4-202, the commissioner is authorized, and shall issue, a registration plate to an owner or lessee of a

motorcycle who is otherwise eligible for a national guard plate, enumerated in § 55-4-203(c)(3), a Tennessee state guard plate, enumerated in § 55-4-269, a memorial plate, enumerated in § 55-4-203(c)(4), or a military plate, enumerated in § 55-4-203(c)(5); provided, however, that the owner or lessee shall comply with the state motor vehicle laws relating to registration and licensing of motorcycles; and, except for an owner or lessee eligible for a memorial plate, enumerated in § 55-4-203(c)(4), and as provided in § 55-4-255(d)(1)(A) for an enlisted national guard member, pay the regular fee applicable to motorcycles, and the applicable fee specified in § 55-4-204, prior to the issuance of any such plate.

(2) Nothing in this section shall be construed as authorizing the issuance of an additional plate or plates free of charge to an eligible owner or lessee, whether for a motorcycle, authorized motor vehicle, or a combination of the two, above the total number of free plates authorized by § 55-4-261 for former prisoners of war, by § 55-4-258 pertaining to recipients of the Congressional Medal of Honor, by § 55-4-259 for recipients of the Distinguished Service Cross, Navy Cross, Air Force Cross, Silver Star, Bronze Star (Valor), Air Medal (Valor), or the Distinguished Flying Cross, by § 55-4-256 for disabled veterans, including those disabled veterans who choose to receive the Purple Heart plate, pursuant to § 55-4-256(d), or by § 55-4-255(d)(1)(A) for enlisted national guard members, as applicable.

(b) The motorcycle plates authorized by this section shall be substantially the same in design and configuration, allowing for variations due to size restrictions, as the regular motor vehicle registration plates authorized by § 55-4-203(c)(5)(E)(iv) for combat veterans, by § 55-4-203(c)(5)(E)(vii) for the Marine Corps League, by § 55-4-255 for national guard members, by § 55-4-269 for state guard members, by § 55-4-260 for Air Medal (Meritorious) and Bronze Star (Meritorious) recipients, by § 55-4-261 for former prisoners of war, by § 55-4-258 pertaining to recipients of the Congressional Medal of Honor, by § 55-4-259 for recipients of the Distinguished Service Cross, Navy Cross, Air Force Cross, Silver Star, Bronze Star (Valor), Air Medal (Valor), or the Distinguished Flying Cross, by § 55-4-256 for disabled veterans, by § 55-4-262 for Pearl Harbor survivors, by § 55-4-257 for holders of the Purple Heart, by § 55-4-254 for members of the United States reserve forces, by § 55-4-263 for enemy evadees, by § 55-4-252 for active and retired members of the United States military and the United States military reserves in good standing, or by § 55-4-253 for honorably discharged veterans, as applicable.

(c) The funds produced from the sale and renewal of the motorcycle plates shall be allocated in accordance with § 55-4-216 for the military plates enumerated in § 55-4-203(c)(5)(E), and in accordance with § 55-4-218 for the national guard plates enumerated in § 55-4-203(c)(3) and the memorial plates enumerated in § 55-4-203(c)(4), as applicable.

55-4-272. Paratrooper.

(a) An owner or lessee of a motor vehicle who is a resident of this state, who is an active member or retired or honorably discharged veteran of the United States armed forces, and who, as part of the member or veteran's military duty, has been trained to jump from flying aircraft, upon complying with state motor vehicle laws relating to registration and licensing of motor vehicles and upon paying the regular fee applicable to the vehicle and the fee prescribed by § 55-4-204(c), shall be issued a paratrooper license plate for a

motor vehicle authorized by § 55-4-210(c).

(b) The application for such plate shall be accompanied by the following:

(1)(A) A valid military identification card or such other document as the commissioner designates as sufficient proof that the applicant is an active member of the United States armed forces; or

(B)*(i)* A certified copy of the veteran's certificate of release or discharge from active duty, department of defense form 214 (DD 214), 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;

(ii) A valid DD form 2 (Retired) military identification card; or

(iii) A Tennessee driver license that indicates military service in accordance with § 55-50-354; and

(2) Documentation of satisfactory completion of the prescribed proficiency tests while assigned or attached to a military airborne unit or the airborne department of the United States army infantry school, to include:

(A) Military orders awarding the parachutist badge authorized by the United States army to the member or veteran;

(B) The veteran's certificate of release or discharge from active duty, department of defense form 214 (DD 214), or report of separation and record of service, NGB form 22, indicating the awarding of the parachutist badge; or

(C) The airborne course diploma issued to the member or veteran by the United States army infantry school.

(c)(1) The design of such license plates that are issued pursuant to this section shall be colored red, white, and blue so as to be similar in hue and intensity to the coloration of the United States flag and shall bear the legend, "U.S. PARATROOPER."

(2) The license plates provided for in this section shall feature a likeness of the parachutist badge authorized by the United States army.

55-4-273. Members of 5th Special Forces Group (Airborne).

(a) Distinctive license plates are authorized for active, retired, and honorably discharged members of 5th Special Forces Group (Airborne) in good standing. The plates are approved for display on motor vehicles that are authorized by § 55-4-210(c) and that are owned and operated, or leased by, a member or a member's spouse or child.

(b) The license plates shall bear an emblem distinctive of 5th Special Forces Group (Airborne) and the legend "5th Special Forces Group (Airborne)". The plates shall be designed in consultation with an authorized representative of 5th Special Forces Group (Airborne).

(c) The license plate authorized pursuant to this section shall be issued upon:

(1) Payment of the regular registration fee pursuant to this chapter;

(2) Payment of the fee prescribed by § 55-4-204(c); and

(3) Submission of documentation required by subsection (d) or (e).

(d)(1) All applications pursuant to this section must be accompanied by military orders or other official documentation detailing an assignment to 5th Special Forces Group (Airborne) as proof of eligibility for issuance of a license plate pursuant to this section.

(2) In addition to providing the documentation required under subdivision (d)(1):

(A) An active duty member of 5th Special Forces Group (Airborne) must present a valid 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

(B) A retired or honorably discharged member of 5th Special Forces Group (Airborne) must present:

(i) A certified copy of the member's certificate of release or discharge from active duty, department of defense form 214 (DD 214);

(ii) A valid DD form 2 (Retired) military identification card; or

(iii) A Tennessee driver license that indicates military service in accordance with § 55-50-354.

(3) An application pursuant to this section by a spouse or child of a member must be accompanied by documentation that:

(A) Is required from a member under subdivisions (d)(1) and (2); and

(B) Provides sufficient proof that the applicant is the spouse or child of a member, including:

(i) A valid DD form 1173 military dependent identification card;

(ii) A marriage certificate;

(iii) A birth certificate or certificate of adoption; or

(iv) Other documentation designated by the commissioner.

(e) A surviving spouse of a deceased retired or honorably discharged member or of a member who died while on active duty shall be issued a license plate pursuant to this section, until the surviving spouse remarries, upon:

(1) Complying with state motor vehicle laws relating to registration and licensing of motor vehicles;

(2) Paying the regular registration fee pursuant to this chapter and the fee prescribed by § 55-4-204(c);

(3) Providing documentation required under subdivision (d)(3); and

(4) Providing a copy of the death certificate of the deceased.

(f) An applicant shall be required to submit the documentation required by subsection (d) or (e) only when initially applying for license plates under this section. Subsequent license plates under this section shall be issued to that person without the repeated presentation of documentation.

55-4-274. Rakkasans.

(a) Distinctive license plates are authorized for active, retired, and honorably discharged members of the Rakkasans, which is the moniker for the 187th Infantry Regiment of the 101st Airborne Division (Air Assault) of the United States Army, in good standing. The plates are approved for display on motor vehicles that are authorized by § 55-4-210(c) and that are owned and operated, or leased by, a member or a member's spouse or child.

(b) The license plates shall bear an emblem distinctive of the Rakkasans and the language "Rakkasans" with a red torii and the Combat Infantry Badge. The plates shall be designed in consultation with an authorized representative of the 187th Infantry Regiment.

(c) The license plate authorized pursuant to this section shall be issued upon:

(1) Payment of the regular registration fee pursuant to this chapter;

(2) Payment of the fee prescribed by § 55-4-204(c); and

(3) Submission of documentation required by subsection (d) or (e).

(d)(1) All applications pursuant to this section must be accompanied by military orders or other official documentation detailing an assignment to the 187th Infantry Regiment of the 101st Airborne Division (Air Assault) of the United States Army as proof of eligibility for issuance of a license plate pursuant to this section.

(2) In addition to providing the documentation required under subdivision (d)(1):

(A) An active duty member of the 187th Infantry Regiment must present a valid 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

(B) A retired or honorably discharged member of the 187th Infantry Regiment must present:

(i) A certified copy of the member's certificate of release or discharge from active duty, department of defense form 214 (DD 214);

(ii) A valid DD form 2 (Retired) military identification card; or

(iii) A Tennessee driver license that indicates military service in accordance with § 55-50-354.

(3) An application pursuant to this section by a spouse or child of a member must be accompanied by documentation that:

(A) Is required from a member under subdivisions (d)(1) and (2); and

(B) Provides sufficient proof that the applicant is the spouse or child of a member, including:

(i) A valid DD form 1173 military dependent identification card;

(ii) A marriage certificate;

(iii) A birth certificate or certificate of adoption; or

(iv) Other documentation designated by the commissioner.

(e) A surviving spouse of a deceased retired or honorably discharged member or of a member who died while on active duty shall be issued a license plate pursuant to this section, until the surviving spouse remarries, upon:

(1) Complying with state motor vehicle laws relating to registration and licensing of motor vehicles;

(2) Paying the regular registration fee pursuant to this chapter and the fee prescribed by § 55-4-204(c);

(3) Providing documentation required under subdivision (d)(3); and

(4) Providing a copy of the death certificate of the deceased.

(f) An applicant shall be required to submit the documentation required by subsection (d) or (e) only when initially applying for license plates under this section. Subsequent license plates under this section shall be issued to that person without the repeated presentation of documentation.

55-4-275 — 55-4-289. [Reserved.]

55-4-290. Allocation of revenue from specialty earmarked plates.

(a) Effective July 1, 1998, and for all subsequent fiscal years, the revenues produced from the sale or renewal of specialty earmarked motor vehicle registration plates as defined in § 55-4-201, after deducting the expense the

department has incurred in designing, manufacturing and marketing the plates, shall be allocated in each fiscal year as earmarked or specified in the statute authorizing the issuance of each individual specialty earmarked plate.

(b) Nothing in this section shall be construed as reallocating the revenues produced from the regular motor vehicle registration fees, or renewals thereof, imposed by part 1 of this chapter. The revenues shall be allocated in accordance with § 55-6-107.

55-4-291. "Children First!"

(a) An owner or lessee of a motor vehicle who is a resident of this state, upon complying with state motor vehicle laws relating to registration and licensing of motor vehicles, and paying the regular fee applicable to the motor vehicle and the fee provided for in § 55-4-204, shall be issued a "CHILDREN FIRST!" specialty earmarked plate for a motor vehicle authorized by § 55-4-210(c).

(b) The commissioner, in consultation with the commission on children and youth, shall determine a distinctive color and design for the "CHILDREN FIRST!" specialty earmarked plate.

(c) All revenues produced in each fiscal year from the sale of "CHILDREN FIRST!" specialty earmarked plates, minus the costs the state has incurred in designing and manufacturing the plates, shall be allocated to the department of human services, to be used solely to provide additional funding for child abuse prevention services pursuant to § 71-6-203.

55-4-292. "Helping schools" volunteers.

(a) An owner or lessee of a motor vehicle who is a resident of this state and who wishes to contribute to the welfare and well-being of Tennessee's public schools, upon complying with state motor vehicle laws relating to registration and licensing of motor vehicles, and paying the regular fee applicable to the motor vehicle and the fee provided in § 55-4-204, shall be issued a "Helping Schools" specialty earmarked license plate for a motor vehicle authorized by § 55-4-210(c).

(b) The specialty earmarked plates provided for in this section shall be designed in consultation with the department of education.

(c)(1)(A) The proceeds from the fee paid pursuant to § 55-4-204 for the sale of "Helping Schools" specialty earmarked plates and the special decals authorized by this section, minus the expense the state has incurred in designing, marketing and manufacturing the plates or decals, shall be deposited in the general school fund. The owners or lessees of motor vehicles who obtain special plates pursuant to this section may designate that the proceeds from the fees shall be allocated to a particular named school. The county clerk shall remit the proceeds to the local education agency operating the named school, and the local school board shall allocate the proceeds for the benefit of the named school, and shall make the funds available to the school. Any undesignated proceeds from these fees shall be allocated as provided in this section. At the option of the local school board or boards, these funds may be provided to an educational foundation in each system or systems. The foundation shall be duly chartered under the statutes of Tennessee.

(B) The foundation shall allocate the funds solely for supplies, equipment and training for students and certificated employees. Proceeds shall

be distributed to the local education agency according to the average daily attendance of schools which serve the counties in which the proceeds were generated.

(2) Notwithstanding this section or any other law to the contrary, in lieu of the specialty earmarked plates provided by this section, owners or lessees of authorized motor vehicles may be issued a special decal for the windshield of the motor vehicles, such decal containing the logo "Helping Schools." All other provisions of this section concerning the issuance of specialty earmarked license plates, including the payment of the special fee as provided in § 55-4-204, shall apply to the special decal.

55-4-293. Supporter of Saint Jude Children's Research Hospital.

(a) An owner or lessee of a motor vehicle who is a resident of this state, upon complying with state motor vehicle laws relating to registration and licensing of motor vehicles, and paying the regular fee applicable to the motor vehicle and the fee provided for in § 55-4-204, shall be issued a supporter of Saint Jude Children's Research Hospital specialty earmarked license plate for a motor vehicle authorized by § 55-4-210(c).

(b) The specialty earmarked plates provided for in this section shall be designed in consultation with the chair of the board of directors of Saint Jude Children's Research Hospital.

(c)(1) The funds produced from the sale of the supporters of Saint Jude Children's Research Hospital specialty earmarked license plates, less the expense the state has incurred in designing and manufacturing the plates, shall be deposited in a special fund in the general fund to be used exclusively for research into the causes and treatment of cancer and cancer-related illnesses in children at children's hospitals in Tennessee that have such treatment and research as their principal mission. The commissioner of health shall make grants to these hospitals for such research from moneys available in the special fund.

(2) There is established a general fund reserve to be allocated by the general appropriations act, which shall be known as the children's cancer research endowment fund. Moneys from the fund may be expended to fund activities authorized by this section. Any revenues deposited in this reserve shall remain in the reserve until expended for purposes consistent with this section, and shall not revert to the general fund on any June 30. Any excess revenues on interest earned by the revenues shall not revert on any June 30, but shall remain available for appropriation in subsequent fiscal years. Any appropriation from this reserve shall not revert to the general fund on any June 30, but shall remain available for expenditure in subsequent fiscal years.

55-4-294. African-American fraternity or sorority members.

(a) An owner or lessee of a motor vehicle who is a resident of this state and who is certified as a member or alumni member of the following fraternities or sororities: Delta Sigma Theta, Alpha Kappa Alpha, Zeta Phi Beta, Omega Psi Phi, Alpha Phi Alpha, Phi Beta Sigma, or Kappa Alpha Psi, upon complying with state motor vehicle laws relating to registration and licensing of motor vehicles, and paying the regular fee applicable to the motor vehicle and the fee provided for in § 55-4-204, shall be issued an appropriate African-American fraternity or sorority specialty earmarked license plate for a motor vehicle

authorized by § 55-4-210(c).

(b) The application for these license plates shall be accompanied by proof satisfactory to the commissioner, certifying the applicant to be a member or alumni member of the appropriate fraternity or sorority pursuant to subsection (a).

(c) The specialty earmarked plates provided for in this section shall be of the colors and contain the logo of the appropriate fraternity or sorority pursuant to subsection (a) and shall be designed in consultation with the executive director of the appropriate fraternity or sorority.

(d) The proceeds from the fees paid pursuant to § 55-4-204 for the sale of the African-American fraternity and sorority specialty earmarked plates authorized by this section, minus the expense the state has incurred in designing and manufacturing these plates, shall be deposited in a fund to benefit Tennessee historically black colleges (Fisk University, Knoxville College, Lane College and LeMoyne-Owen College).

55-4-295. Environmental.

(a) An owner or lessee of a motor vehicle who is a resident of this state, upon complying with state motor vehicle laws relating to registration and licensing of motor vehicles, and paying the regular fee applicable to the motor vehicle and the fee provided for in § 55-4-204, shall be issued an environmental specialty earmarked plate for a motor vehicle authorized by § 55-4-210(c).

(b) All revenues produced from the sale of environmental plates, minus the costs the state has incurred in designing, marketing and manufacturing the plates, shall be allocated to the division of state parks in the department of environment and conservation to be used solely for the planting and cultivation of trees, shrubs, plants, and flowers and for the maintenance of trees, shrubs, plants and flowers and for making grants to universities in Tennessee for the development of new methods of treating pests that threaten trees and other vegetation at parks.

55-4-296. Friends of Great Smoky Mountains.

(a) An owner or lessee of a motor vehicle who is a resident of this state, upon complying with state motor vehicle laws relating to registration and licensing of motor vehicles, and paying the regular fee applicable to the motor vehicle and the fee provided for in § 55-4-204, shall be issued a Friends of Great Smoky Mountains specialty earmarked license plate for a motor vehicle authorized by § 55-4-210(c).

(b)(1) The funds produced from the sale of the Friends of Great Smoky Mountains specialty earmarked license plates shall be allocated in accordance with § 55-4-290 to the Friends of Great Smoky Mountains Endowment Fund established pursuant to subdivision (b)(2). Subject to subdivision (b)(3), the commissioner of finance and administration shall make disbursements of the funds on a quarterly basis to the Friends of Great Smoky Mountains, Inc. The funds shall be used exclusively for the assistance of the national park service in the care of the Great Smoky Mountains National Park.

(2) There is established a general fund reserve to be allocated by the general appropriations act, which shall be known as the Friends of Great Smoky Mountains endowment fund. Moneys from the fund may be expended

to fund activities authorized by this section. Any revenues deposited in this reserve shall remain in the reserve until expended for purposes consistent with this section, and shall not revert to the general fund on any June 30. Any excess revenues on interest earned by the revenues shall not revert on any June 30, but shall remain available for appropriation in subsequent fiscal years. Any appropriation from this reserve shall not revert to the general fund on any June 30, but shall remain available for expenditure in subsequent fiscal years.

(3) No expenditure shall be made from the fund until the combination of principal and interest reaches one hundred thousand dollars ($100,000). Thereafter, the first fifty thousand dollars ($50,000) in revenues produced from the sale of the plates in each fiscal year shall be added to the principal, and all revenues produced from the sale of the plates in each fiscal year in excess of fifty thousand dollars ($50,000) and the earned interest of the fund shall be available for expenditures to aid in carrying out the purposes of the fund; provided, however, at such time as the principal of the fund reaches five hundred thousand dollars ($500,000), all revenues produced thereafter from the sale of the plates in each fiscal year and the earned interest of the fund shall be available for expenditures to aid in carrying out the purposes of the fund.

(c) The specialty earmarked plates provided for in this section shall be designed in consultation with a representative of Friends of Great Smoky Mountains, Inc.

55-4-297. Nongame and endangered wildlife species.

(a) An owner or lessee of a motor vehicle who is a resident of this state, upon complying with state motor vehicle laws relating to registration and licensing of motor vehicles, and paying the regular fee applicable to the motor vehicle and the fee provided for in § 55-4-204, shall be issued a nongame and endangered wildlife species or "Watchable Wildlife" specialty earmarked license plate for a motor vehicle authorized by § 55-4-210(c).

(b) The funds produced from the sale of nongame and endangered wildlife species or "Watchable Wildlife" specialty earmarked license plates, less the expense the state has incurred in designing and manufacturing the plates, shall be deposited in the watchable wildlife endowment fund established by § 70-8-110(c), to be used exclusively for the preservation of nongame and endangered wildlife species and the protection and enhancement of such species' habitats.

(c) The specialty earmarked plates provided for in this section shall be designed in consultation with the executive director of the Tennessee wildlife resources agency.

55-4-298. Agriculture.

(a) An owner or lessee of a motor vehicle who is a resident of this state and who wishes to promote agriculture in Tennessee through market development, education, and awareness, upon complying with state motor vehicle laws relating to registration and licensing of motor vehicles, and paying the regular fee applicable to the motor vehicle and the fee provided for in § 55-4-204, shall be issued an agriculture specialty earmarked license plate for a motor vehicle authorized by § 55-4-210(c).

(b)(1) The additional fee imposed by § 55-4-204 for the issuance of agricultural specialty earmarked license plates, minus the expense the state has incurred in designing and manufacturing the plates, shall be earmarked for and appropriated to the department of agriculture for deposit in the agricultural development fund.

(2) The agricultural development fund shall be used exclusively for funding projects and activities that promote market development for agricultural products, as well as promoting information, education, and awareness about agriculture in Tennessee.

(3) The commissioner of agriculture may issue grants from the agricultural development fund for the purposes set forth in this section.

(4) Moneys in the agricultural development fund shall not revert to the general fund at the end of any fiscal year, but shall be carried forward in a reserve fund into the next fiscal year to be reappropriated for the purposes set forth in this section. All interest accruing on investments and deposits in the agricultural development fund not otherwise expended shall be returned to and made a part of the fund.

(c) The specialty earmarked plates provided for in this section shall be designed in consultation with the commissioner of agriculture.

55-4-299. Ducks Unlimited.

(a) An owner or lessee of a motor vehicle who is a resident of this state and who is certified as a member of Ducks Unlimited, upon complying with state motor vehicle laws relating to registration and licensing of motor vehicles, and paying the regular fee applicable to the motor vehicle and the fee provided for in § 55-4-204, shall be issued a Ducks Unlimited specialty earmarked license plate for a motor vehicle authorized by § 55-4-210(c).

(b) The application for the license plates shall be accompanied by proof satisfactory to the commissioner certifying the applicant to be a member of Ducks Unlimited.

(c) The specialty earmarked plates provided for in this section shall contain the logo of Ducks Unlimited, and shall be designed in consultation with the executive director of the Tennessee chapter of Ducks Unlimited.

(d) The funds produced from the sale of Ducks Unlimited specialty earmarked license plates authorized by this section shall be allocated to Ducks Unlimited in accordance with § 55-4-290.

55-4-301. Allocation of revenue from new specialty earmarked plates.

(a) Effective July 1, 1998, and for all subsequent fiscal years, all revenues produced from the sale or renewal of new specialty earmarked motor vehicle registration plates, as defined in § 55-4-201, after deducting the expense the department has incurred in designing, manufacturing and marketing the plates and, if applicable, disabled driver decals in accordance with § 55-21-103(a)(6), shall be allocated as follows:

(1) Fifty percent (50%) of the funds shall be allocated to the nonprofit organization or state agency or fund earmarked to receive the funds by the statute authorizing the issuance of the plate. The funds shall be used solely to fulfill the purpose or to accomplish the goal specified in the statute authorizing the issuance of the plate;

(2) Forty percent (40%) of the funds shall be allocated to the Tennessee

arts commission created in title 4, chapter 20; and

(3) Ten percent (10%) of the funds shall be allocated to the state highway fund.

(b)(1) The revenues allocated to the Tennessee arts commission pursuant to subdivision (a)(2) shall be distributed by the arts commission in the form of grants to arts organizations or events which meet criteria established by the arts commission for receiving grants, within the following parameters:

(A) One-third (⅓) of the funds shall be distributed to qualifying arts organizations or events in urban counties; and

(B) Two-thirds (⅔) of the funds shall be distributed to qualifying arts organizations or events in rural counties.

(2) Before the revenue allocated in subdivisions (b)(1)(A) and (B) are granted to the particular local arts organizations or events, an amount not to exceed fifty percent (50%) of the revenues allocated to the Tennessee arts commission pursuant to subdivision (a)(2) may be expended for other grants and activities as determined by the commission.

(c) It is the legislative intent that funds statutorily earmarked from the sale or renewal of new specialty earmarked plates shall only be allocated to:

(1) A nonprofit organization;

(2) A department, agency or other instrumentality of state government; or

(3) A special reserve fund to be utilized by a state agency to effectuate a purpose deemed to be in the state's best interest.

(d) Nothing in this section shall be construed as reallocating the revenues produced from the regular motor vehicle registration fees, or renewals thereof, imposed by part 1 of this chapter. Such revenues shall be allocated in accordance with § 55-6-107.

(e) For the purposes of this section, "urban counties" are those counties that are included within a metropolitan statistical area, as defined by the federal office of management and budget and as enumerated in the most current edition of Tennessee Statistical Abstract. "Rural counties" are those counties that are not included within a metropolitan statistical area, as defined by the federal office of management and budget.

55-4-302. National Rifle Association.

(a) An owner or lessee of a motor vehicle who is a resident of this state, upon complying with state motor vehicle laws relating to registration and licensing of motor vehicles and paying the regular fee applicable to the motor vehicle and the fee provided for in § 55-4-204, shall be issued a National Rifle Association new specialty earmarked license plate for a motor vehicle authorized by § 55-4-210(c).

(b) The application for the license plates shall be accompanied by proof satisfactory to the commissioner certifying the applicant to be a member of the National Rifle Association.

(c) The new specialty earmarked license plates shall contain an appropriate logo and design representative of the National Rifle Association, and shall be designed in consultation with the executive vice president of the National Rifle Association.

(d) The funds produced from the sale of the National Rifle Association new specialty earmarked license plates shall be allocated to the Tennessee Wildlife Federation, a nonprofit 501(c)(3) organization (26 U.S.C. § 501 (c)(3)), in

accordance with § 55-4-301. The funds shall be used exclusively for scholastic clay target programs.

55-4-303. Trout Unlimited.

(a) An owner or lessee of a motor vehicle who is a resident of this state, upon complying with state motor vehicle laws relating to registration and licensing of motor vehicles and paying the regular fee applicable to the motor vehicle and the fee provided in § 55-4-204, shall be issued a Trout Unlimited new specialty earmarked license plate for a motor vehicle authorized by § 55-4-210(c).

(b) The new specialty earmarked license plates shall contain the official Trout Unlimited logo or other appropriate design representative of the organization and shall be designed in consultation with the board of trustees of Trout Unlimited.

(c) The funds produced from the sale of Trout Unlimited new specialty earmarked license plates shall be allocated to the Tennessee Council of Trout Unlimited, in accordance with § 55-4-301, for distribution to the Tennessee chapters of Trout Unlimited in amounts as determined by the Tennessee council. The funds shall be used exclusively in Tennessee by the Tennessee chapters of Trout Unlimited to further the organization's mission to conserve, protect, and restore North America's coldwater fisheries and their watersheds.

(d) Notwithstanding the time limitations of § 55-4-202(h)(1), the trout unlimited new specialty earmarked license plates authorized for issuance pursuant to this section shall have until July 1, 2009, to meet the applicable minimum issuance requirements of § 55-4-202(h)(1).

55-4-304. Smallmouth bass.

(a) An owner or lessee of a motor vehicle who is a resident of the state, upon complying with state motor vehicle laws relating to registration and licensing of motor vehicles and paying the regular fee applicable to the motor vehicle and the fee provided for in § 55-4-204, shall be issued a smallmouth bass new specialty earmarked license plate for a motor vehicle authorized by § 55-4-210(c).

(b) The new specialty earmarked license plates provided for in this section shall contain a design of a smallmouth bass and shall be designed in consultation with the executive director of the Tennessee wildlife resources agency.

(c) The funds produced from the sale of the smallmouth bass new specialty earmarked license plates shall be allocated to the Tennessee wildlife resources agency, in accordance with § 55-4-301. The funds shall be deposited in the wildlife resources fund established in § 70-1-401, to be used exclusively for management, protection, propagation and conservation of fish and wildlife species, and the protection and enhancement of the species' habitats.

55-4-305. Sportsman.

(a) An owner or lessee of a motor vehicle who is a resident of this state, upon complying with state motor vehicle laws relating to registration and licensing of motor vehicles and paying the regular fee applicable to the motor vehicle and the fee provided for in § 55-4-204, shall be issued a sportsman new specialty earmarked license plate for a motor vehicle authorized by § 55-4-210(c).

(b) The new specialty earmarked plates provided for in this section shall

contain an appropriate image, design or logo that promotes and indicates support for the protection, propagation and conservation of fish and wildlife in Tennessee, including the importance of protecting and preserving for future generations the heritage of hunting and fishing in this state. These plates shall be designed in consultation with the executive director of the Tennessee wildlife resources agency and the board of directors of the Sportsmen's Wildlife Foundation.

(c) The funds produced from the sale of the sportsman new specialty earmarked license plates shall be allocated in accordance with § 55-4-301 to the Sportsmen's Wildlife Foundation. The funds shall be used exclusively to establish and administer programs to ensure the protection, propagation and conservation of fish and wildlife in Tennessee in order to assure the preservation of the heritage of hunting and fishing in this state for future generations.

55-4-306. National Wild Turkey Federation.

(a) An owner or lessee of a motor vehicle who is a resident of this state upon complying with state motor vehicle laws relating to registration and licensing of motor vehicles and paying the regular fee applicable to the motor vehicle and the fee provided in § 55-4-204, shall be issued a National Wild Turkey Federation new specialty earmarked license plate for a motor vehicle authorized by § 55-4-210(c).

(b) The new specialty earmarked license plates shall contain the official image, logo or other appropriate design representative of the National Wild Turkey Federation and shall include the phrase "Conserve. Hunt. Share." The plates shall be designed in consultation with the regional director for the east Tennessee local chapters of the National Wild Turkey Federation.

(c) The funds produced from the sale of the National Wild Turkey Federation new specialty earmarked license plates shall be allocated to the Tennessee State Chapter of the National Wild Turkey Federation, in accordance with § 55-4-301, for distribution to the Tennessee local chapters of the organization. The funds shall be used exclusively in Tennessee to further the organization's mission to conserve the wild turkey and preserve the heritage of hunting in this state.

55-4-307. Fish and wildlife species.

(a) An owner or lessee of a motor vehicle who is a resident of this state, upon complying with state motor vehicle laws relating to registration and licensing of motor vehicles, and paying the regular fee applicable to the motor vehicle and the fee provided for in § 55-4-204, shall be issued a fish and wildlife species new specialty earmarked license plate for a motor vehicle authorized by § 55-4-210(c).

(b) The funds derived from the sale of the fish and wildlife species new specialty earmarked license plates, less the expense the state has incurred in designing and manufacturing the plates, shall be deposited in the wildlife resources fund established in § 70-1-401, to be used exclusively for management, protection, propagation and conservation of fish and wildlife species and the protection and enhancement of the species' habitats.

(c) The new specialty earmarked plates provided for in this section shall be designed in consultation with the executive director of the Tennessee wildlife resources agency, the director of the department's taxpayer and vehicle services division and the commissioner.

55-4-308. Eagle Foundation.

(a) An owner or lessee of a motor vehicle who is a resident of this state, upon complying with state motor vehicle laws relating to registration and licensing of motor vehicles and paying the regular fee applicable to the motor vehicle and the fee provided for in § 55-4-204, shall be issued an Eagle Foundation new specialty earmarked license plate for a motor vehicle authorized by § 55-4-210(c).

(b) The new specialty earmarked plates provided for in this section shall contain the official logo of the Eagle Foundation and/or a representation of the American bald eagle. The plates shall be designed in consultation with the board of directors of the Eagle Foundation.

(c) The funds produced from the sale of the Eagle Foundation new specialty earmarked license plates shall be allocated to the Eagle Foundation in accordance with § 55-4-301. The funds shall be used exclusively for the preservation of the American bald eagle and its habitat.

55-4-309. Tennessee Wildlife Federation.

(a) An owner or lessee of a motor vehicle who is a resident of the state, upon complying with state motor vehicle laws relating to registration and licensing of motor vehicles and paying the regular fee applicable to the motor vehicle and the fee provided for in § 55-4-204, shall be issued a Tennessee Wildlife Federation new specialty earmarked license plate for a motor vehicle authorized by § 55-4-210(c).

(b) The new specialty earmarked license plates provided for in this section shall be designed in consultation with the executive director of the Tennessee Wildlife Federation.

(c) In accordance with § 55-4-301, the funds produced from the sale of the new specialty earmarked license plates shall be allocated to the Tennessee Wildlife Federation, to be used in furtherance of that organization's activities in Tennessee.

55-4-310. Tennessee wildlife federation nongame and education programs.

(a) An owner or lessee of a motor vehicle who is a resident of this state, upon complying with state motor vehicle laws relating to registration and licensing of motor vehicles and paying the regular fee applicable to the motor vehicle and the fee provided in § 55-4-204, shall be issued a Tennessee wildlife federation nongame and education programs new specialty earmarked license plate for a motor vehicle authorized by § 55-4-210(c).

(b) The new specialty earmarked license plates shall contain the official Tennessee wildlife federation logo or other appropriate design representative of the organization and shall be designed in consultation with the board of directors of the Tennessee wildlife federation.

(c) The funds produced from the sale of Tennessee wildlife federation nongame and education programs new specialty earmarked license plates shall be allocated to the Tennessee wildlife federation in accordance with § 55-4-301. The funds shall be used by the Tennessee wildlife federation exclusively in Tennessee to further the organization's mission to conserve, protect, and restore Tennessee's wildlife and natural resources.

55-4-311. Appalachian Trail.

(a) An owner or lessee of a motor vehicle who is a resident of this state, upon complying with state motor vehicle laws relating to registration and licensing of motor vehicles and paying the regular fee applicable to the motor vehicle and the fee provided for in § 55-4-204, shall be issued an Appalachian Trail new specialty earmarked license plate for a motor vehicle authorized by § 55-4-210(c).

(b) The new specialty earmarked plates shall be designed in consultation with the Appalachian Trail Conservancy.

(c) The funds produced from the sale of Appalachian Trail new specialty earmarked license plates shall be allocated to the Appalachian Trail Conservancy in accordance with § 55-4-301. Notwithstanding § 55-4-202(j) to the contrary, the funds shall be used exclusively to support and assist the management of programs and activities for the Appalachian Trail that lies either in Tennessee or near the Tennessee-North Carolina border.

55-4-312. Share the road.

(a) Owners or lessees of motor vehicles who are residents of this state, upon complying with state motor vehicle laws relating to registration and licensing of motor vehicles and paying the regular fee applicable to the motor vehicle and the fee provided for in § 55-4-204, shall be issued a share the road new specialty earmarked license plate for a motor vehicle authorized by § 55-4-210(c).

(b) The purpose of share the road new specialty earmarked license plates is to raise public awareness about bicyclists and their rights on the road and traffic safety involving motorists and bicyclists.

(c) The new specialty earmarked plates provided for in this section shall contain an appropriate logo or design. The plates shall be designed in consultation with the Jeff Roth Cycling Foundation. Notwithstanding any provision of law to the contrary, the new specialty earmarked plates provided for in this section shall have until July 1, 2012, to meet the initial issuance requirements of § 55-4-202(h)(1). In addition, the new specialty earmarked plates provided in this section shall be redesigned in consultation with the Jeff Roth Cycling Foundation. Such newly redesigned plate shall be available for initial issuance and renewals on or after July 1, 2010.

(d) The funds produced from the sale of share the road new specialty earmarked license plates shall be allocated to the Jeff Roth Cycling Foundation in accordance with § 55-4-301.

55-4-313. [Obsolete.]

55-4-314. Protecting Rivers and Clean Waters.

(a) An owner or lessee of a motor vehicle who is a resident of this state upon complying with state motor vehicle laws relating to registration and licensing of motor vehicles and paying the regular fee applicable to the motor vehicle and the fee provided in § 55-4-204, shall be issued a Protecting Rivers and Clean Waters new specialty earmarked license plate for a motor vehicle authorized by § 55-4-210(c).

(b) The new specialty earmarked license plates shall be of an appropriate design representative of the protection of rivers and clean waters. The plates

shall be designed in consultation with the Harpeth Conservancy.

(c) The funds produced from the sale of the Protecting Rivers and Clean Waters new specialty earmarked license plates shall be allocated to the Harpeth Conservancy, in accordance with § 55-4-301. The funds shall be used for restoring and protecting the ecological health of the Harpeth River and clean water in Tennessee.

(d) Notwithstanding § 55-4-202(h)(1), the Protecting Rivers and Clean Waters new specialty earmarked license plates authorized by this section shall have until July 1, 2015, to meet applicable initial issuance requirements of § 55-4-202(h)(1).

(e) [Deleted by 2017 amendment.]

55-4-315. Radnor Lake.

(a) An owner or lessee of a motor vehicle who is a resident of this state, upon complying with state motor vehicle laws relating to registration and licensing of motor vehicles, and paying the regular fee applicable to the motor vehicle and the fee provided for in § 55-4-204, shall be issued a Radnor Lake new speciality earmarked license plate for a motor vehicle authorized by § 55-4-210(c).

(b) The funds derived from the sale of the Radnor Lake new specialty earmarked license plates, less the expense the state has incurred in designing and manufacturing the plates, shall be allocated to The Friends of Radnor Lake in accordance with § 55-4-301. These funds shall be used exclusively to protect, preserve and promote the natural integrity of Radnor Lake Natural Area in Davidson County.

(c) The new specialty earmarked plates provided for in this section shall be designed in consultation with the commissioner of environment and conservation, commissioner of agriculture, executive director of the Tennessee wildlife resources agency and the commissioner of revenue.

55-4-316. Tennessee Walking Horse.

(a) An owner or lessee of a motor vehicle who is a resident of this state, upon complying with state motor vehicle laws relating to registration and licensing of motor vehicles, and paying the regular fee applicable to the motor vehicle and the fee provided for in § 55-4-204, shall be issued a Tennessee Walking Horse new specialty earmarked license plate for a motor vehicle authorized by § 55-4-210(c).

(b) The new specialty earmarked license plates provided in this section shall be of the same design as the Tennessee Walking Horse cultural plate authorized by this section as it existed prior to May 19, 2014, bearing the image of or a design depicting the Tennessee Walking Horse.

(c) The funds produced from the sale of Tennessee Walking Horse new specialty earmarked license plates shall be allocated to the Tennessee Walking Horse Breeders' and Exhibitors' Association in accordance with § 55-4-301. The funds shall be used to maintain the purity of the breed, to promote greater awareness of the Tennessee Walking Horse and its qualities, to encourage expansion of the breed and to help assure its general welfare in Tennessee.

(d) Notwithstanding any law to the contrary, any person issued a Tennessee Walking Horse cultural license plate authorized by this section prior to May 19, 2014, shall be entitled to retain such license plate for vehicular use upon

compliance with all motor vehicle laws relating to registration and licensing of motor vehicles and payment of all required fees. All such plates shall be considered new specialty earmarked plates upon their first renewal after May 19, 2014.

(e) This section shall apply to the initial issuance and renewal of all Tennessee Walking Horse license plates on or after May 19, 2014.

55-4-317. Animal friendly.

(a) An owner or lessee of a motor vehicle who is a resident of this state, upon complying with state motor vehicle laws relating to registration and licensing of motor vehicles and paying the regular fee applicable to the motor vehicle and the fee provided for in § 55-4-204, shall be issued an "Animal Friendly" new specialty earmarked license plate for a motor vehicle authorized by § 55-4-210(c).

(b) The new specialty earmarked plates provided for in this section shall contain an appropriate image, design or logo that depicts an animal or animals and indicates support for animal welfare.

(c)(1)(A) The funds produced from the sale of "Animal Friendly" new specialty earmarked license plates, pursuant to § 55-4-301 shall be deposited in a special fund in the general fund to be used exclusively for grants to nonprofit organizations or governmental agencies to provide low-cost spaying and neutering of unsterilized animals to prevent and/or reduce animal overpopulation as well as funding to defray costs incurred by the department of agriculture associated with the licensing of dog and cat dealers pursuant to title 44, chapter 17, part 1, not to exceed eighty thousand dollars ($80,000) per year and not to be available to the department for such purposes after July 1, 2004. It is the intent of the general assembly that the department sustain a grant program to spay and neuter clinics in fiscal years 2003 and 2004 that at least approximates the level of grant allocations in fiscal year 2002 subject to satisfactory qualifications of the respective applicants.

(B) During the first fiscal year in which revenues derived from the fees collected pursuant to title 44, chapter 17, part 1, exceed one hundred thirty thousand dollars ($130,000), the department of agriculture shall allocate all the revenues in excess of one hundred thirty thousand dollars ($130,000) to the animal population control endowment fund. The department of agriculture shall continue the procedure outlined in the preceding sentence during subsequent fiscal years until such time as the department has made reimbursements to the animal population control endowment fund in a total amount of one hundred sixty thousand dollars ($160,000). The commissioner of agriculture is authorized to make grants to eligible organizations to operate animal sterilization programs from moneys available in the special fund.

(2) There is established a general fund reserve to be allocated by the general appropriations act which shall be known as the "animal population control endowment fund." Moneys from the fund may be expended to fund activities authorized by this section. Any revenues deposited in this reserve shall remain in the reserve until expended for purposes consistent with this section, and shall not revert to the general fund on any June 30. Any excess revenues on interest earned by the revenues shall not revert on any June 30,

but shall remain available for appropriation in subsequent fiscal years. Any appropriation from this reserve shall not revert to the general fund on any June 30, but shall remain available for expenditure in subsequent fiscal years.

(3) All revenues produced from the sale and renewal of the new specialty earmarked plates authorized by this section shall be allocated in accordance with § 55-4-301.

(d) "Animal Friendly" new specialty earmarked license plates shall bear the legend "Spay/Neuter"; provided, that plates bearing the legend "Spay/Neuter" shall only be issued after existing supplies of animal friendly plates are exhausted through routine issuance or reissuance.

55-4-318. Save the Bees.

(a) An owner or lessee of a motor vehicle who is a resident of this state, upon complying with state motor vehicle laws relating to registration and licensing of motor vehicles and paying the regular fee applicable to the motor vehicle and the fee provided for in § 55-4-204, shall be issued a Save the Bees new specialty earmarked license plate for a motor vehicle authorized by § 55-4-210(c).

(b) The new specialty earmarked license plates provided for in this section shall contain the official logo or other design representative of Honeybee Tennessee. Such plates shall be designed in consultation with a representative of Honeybee Tennessee.

(c) The funds produced from the sale of Save the Bees new specialty earmarked license plates shall be allocated to Honeybee Tennessee in accordance with § 55-4-301. Such funds shall be used exclusively to support the organization's mission to educate the community on the importance of honeybees, including providing funding for local schools and camps for the appropriate equipment and educational materials needed for beekeeping.

(d) Notwithstanding § 55-4-202(h)(1), the Save the Bees new specialty earmarked license plate authorized pursuant to this section shall have until July 1, 2019, to meet the applicable minimum issuance requirements of § 55-4-202(h)(1).

55-4-319. [Reserved.]

55-4-320. [Obsolete.]

55-4-321. Civil War Preservation.

(a) An owner or lessee of a motor vehicle who is a resident of this state, upon complying with state motor vehicle laws relating to registration and licensing of motor vehicles and paying the regular fee applicable to the motor vehicle and the fee provided in § 55-4-204, shall be issued a Civil War Preservation new specialty earmarked license plate for a motor vehicle authorized by § 55-4-210(c).

(b) The new specialty earmarked license plates shall be of an appropriate design to commemorate the historical and cultural significance of the American Civil War. The plates shall be designed in consultation with the Tennessee Civil War Preservation Association.

(c) The funds produced from the sale of Civil War Preservation new

specialty earmarked license plates shall be allocated to the Tennessee Civil War Preservation Association in accordance with § 55-4-301. The funds shall be used for Tennessee Civil War battlefield preservation and interpretation, and for planning and implementation of Tennessee's Civil War sesquicentennial commemoration and activities.

(d) The Civil War Preservation new specialty earmarked license plate shall be deemed the official license plate for the Tennessee Civil War sesquicentennial commemoration.

(e) Notwithstanding § 55-4-202(h)(1), the Civil War Preservation new specialty earmarked license plates authorized for issuance pursuant to this section shall have until July 1, 2013, to meet applicable initial issuance requirements of § 55-4-202(h)(1).

55-4-322. Sons of Confederate Veterans.

(a) An owner or lessee of a motor vehicle who is a resident of this state, upon complying with state motor vehicle laws relating to registration and licensing of motor vehicles and paying the regular fee applicable to the motor vehicle and the fee provided for in § 55-4-204, shall be issued a Sons of Confederate Veterans new specialty earmarked license plate for a motor vehicle authorized by § 55-4-210(c).

(b) The new specialty earmarked license plates provided for in this section shall be of the colors and contain the logo of the Sons of Confederate Veterans. These plates shall be designed in consultation with the commander of the Tennessee Division of the Sons of Confederate Veterans.

(c) The funds produced from the sale of Sons of Confederate Veterans new specialty earmarked license plates shall be allocated to the Tennessee Division of Sons of Confederate Veterans in accordance with § 55-4-301.

(d)(1) Subject to the requirements of § 55-4-202, the commissioner is authorized and shall issue a registration plate to an owner or lessee of a motorcycle who is otherwise eligible for a Sons of Confederate Veterans new specialty earmarked license plate; provided, however, that the owner or lessee shall comply with the state motor vehicle laws relating to registration and licensing of motorcycles and shall pay the regular fee applicable to motorcycles and the applicable fee specified in § 55-4-204 prior to the issuance of the plate.

(2) The motorcycle plates authorized by this section shall be substantially the same in design and configuration, allowing for variations due to size restrictions, as the regular motor vehicle registration plates authorized by § 55-4-203(c)(7), as applicable.

(e) For the purposes of § 55-4-202(h)(1), all license plates authorized or issued pursuant to subsections (a) and (d) shall be included jointly in any determinations for initial issuance and continuation of issuance.

55-4-323. Friends of Sycamore Shoals Historic Area, Inc.

(a) An owner or lessee of a motor vehicle who is a resident of this state, upon complying with state motor vehicle laws relating to registration and licensing of motor vehicles and paying the regular fee applicable to the motor vehicle and the fee provided for in § 55-4-204, shall be issued a Friends of Sycamore Shoals Historic Area, Inc., new specialty earmarked license plate for a motor vehicle authorized by § 55-4-210(c).

(b) The new specialty earmarked license plates shall be of an appropriate

design representative of the Gadsden flag, and shall include the language "Don't Tread on Me." Such plates shall be designed in consultation with representatives of the Friends of Sycamore Shoals Historic Area, Inc.

(c) The funds produced from the sale of Friends of Sycamore Shoals Historic Area, Inc. new specialty earmarked license plates shall be allocated to the Friends of Sycamore Shoals Historic Area, Inc., in accordance with § 55-4-301. The funds shall be used to support and promote the Sycamore Shoals State Park in Elizabethton, Tennessee, including, but not limited to, assisting in the development, maintenance, and presentation of the park's grounds and structures.

(d) Notwithstanding § 55-4-202(h)(1), the Friends of Sycamore Shoals Historic Area, Inc., new specialty earmarked license plates authorized pursuant to this section shall have until July 1, 2017, to meet the applicable minimum issuance requirements of § 55-4-202(h)(1).

55-4-324. Support Our Troops.

(a) Owners or lessees of motor vehicles who are residents of this state, upon complying with state motor vehicle laws relating to registration and licensing of motor vehicles and paying the regular fee applicable to the motor vehicle and the fee provided for in § 55-4-204, shall be issued a Support Our Troops new specialty earmarked license plate for a motor vehicle authorized by § 55-4-210(c).

(b) The new specialty earmarked plates provided for in this section shall contain a pictorial representation of a soldier and a child in an appropriate design. The plates shall be designed in consultation with the board of directors of Support Our Troops, Inc.

(c) The funds produced from the sale of Support Our Troops new specialty earmarked license plates shall be allocated to Support Our Troops, Inc., in accordance with § 55-4-301. The funds shall be used exclusively to operate such organization's programs and activities in this state.

(d) [Deleted by 2017 amendment.]

55-4-325. Tennessee Sheriffs' Association.

(a) An owner or lessee of a motor vehicle who is a resident of this state and who is a current member of the Tennessee Sheriffs' Association, upon complying with state motor vehicle laws relating to registration and licensing of motor vehicles, and paying the regular fee applicable to the motor vehicle and the fee provided for in § 55-4-204, shall be issued a Tennessee Sheriffs' Association new specialty earmarked license plate for a motor vehicle authorized by § 55-4-210(c).

(b)(1) The application for these license plates shall be accompanied by the current year's membership card from the Tennessee Sheriffs' Association, certifying the applicant to be a member of the organization. If renewed by mail, the renewal shall be accompanied by a copy of the member's current year Tennessee Sheriffs' Association membership card.

(2) Only paid sheriffs, deputy sheriffs, sheriff's office employees and their spouses; retired sheriffs, deputy sheriffs, sheriff's office employees in good standing and their spouses; and Tennessee Sheriffs' Association employees and their spouses who are members of the Tennessee Sheriffs' Association

shall be permitted to receive the license plates.

(c) The new, specialty earmarked license plates provided for in this section shall bear the inscription "TENNESSEE SHERIFFS' ASSOCIATION" or "TSA" and an appropriate standardized insignia of the organization.

(d)(1) If any individual does not comply with subdivision (b)(2), the applicant to whom a registration plate has been issued pursuant to this section shall surrender the plate to the county clerk of the county of the applicant's residence within thirty (30) days of noncompliance.

(2) The Tennessee Sheriffs' Association shall provide biannually to the department the names and addresses of any persons who have terminated their membership in the Tennessee Sheriffs' Association, together with any other identifying information as the commissioner may require.

(3) The Tennessee Sheriffs' Association shall provide quarterly to each sheriff's office a list of current plate holders for verification of employment, retiree in good standing, and spouses.

(e) Subject to the requirements of § 55-4-202, the commissioner is authorized and shall issue a license plate to an owner or lessee of a motorcycle who is otherwise eligible for a Tennessee Sheriffs' Association plate; provided, however, that the owner or lessee shall comply with the state motor vehicle laws relating to registration and licensing of motorcycles and shall pay the regular fee applicable to motorcycles and the applicable fee specified in § 55-4-204 prior to the issuance of the plate.

(f) Funds produced from the sale of Tennessee Sheriffs' Association new specialty earmarked license plates shall be allocated to the Tennessee Sheriffs' Association Charitable Foundations in accordance with § 55-4-301.

(g) For the purposes of § 55-4-202(h)(1), all license plates authorized or issued pursuant to subsections (a) and (e) shall be jointly included in any determinations for initial issuance and continuation of issuance.

55-4-326. Fraternal Order of Police members.

(a) An owner or lessee of a motor vehicle who is a resident of this state and who is certified as a member or associate member of the Fraternal Order of Police, upon complying with state motor vehicle laws relating to registration and licensing of motor vehicles, and paying the regular fee applicable to the motor vehicle and the fee provided for in § 55-4-204, shall be issued a Fraternal Order of Police new specialty earmarked license plate for a motor vehicle authorized by § 55-4-210(c).

(b)(1) The application for such registration plates shall be accompanied by a copy of an active membership card or a statement from the Fraternal Order of Police certifying the applicant to be a member or associate member of the organization.

(2) Only members and associate members of the Fraternal Order of Police or their spouses and shall be permitted to receive the registration plates.

(c) The registration plates provided for in this section shall be of the same design as the Fraternal Order of Police plates authorized and issued prior to July 1, 2011, and shall bear the inscription "FRATERNAL ORDER OF POLICE" or "FOP" and an appropriate standardized insignia of the organization. For applicants who are associate members of the Fraternal Order of Police, the Fraternal Order of Police plates, the strip along the bottom of the license plate shall also bear the language "ASSOCIATE MEMBER."

(d)(1) Within thirty (30) days of terminating membership or associate membership in the Fraternal Order of Police, an applicant to whom a registration plate has been issued pursuant to this section shall surrender the plate to the county clerk of the county of the applicant's residence.

(2) The Fraternal Order of Police shall provide biannually to the department the names and addresses of any persons who have terminated their membership or associate membership in the Fraternal Order of Police, together with any other identifying information as the commissioner may require.

(e) The commissioner is authorized and shall issue a registration plate to an owner or lessee of a motorcycle who is otherwise eligible for a Fraternal Order of Police plate; provided, however, that the owner or lessee shall comply with the state motor vehicle laws relating to registration and licensing of motorcycles and shall pay the regular fee applicable to motorcycles and the applicable fee specified in § 55-4-204 prior to the issuance of the plate.

(f) Funds produced from the sale of Fraternal Order of Police specialty earmarked license plates shall be allocated to the Tennessee Fraternal Order of Police Charitable Foundation in accordance with § 55-4-301.

(g) Notwithstanding any law to the contrary, any person issued a Fraternal Order of Police license plate prior to July 1, 2011, shall be entitled to retain the license plate for vehicular use upon compliance with all motor vehicle laws relating to registration and licensing of motor vehicles and payment of all required fees. Such plates shall be considered Fraternal Order of Police specialty earmarked plates upon their first renewal on or after July 1, 2011, upon the applicant's designation.

(h) For the purposes of § 55-4-202(h)(1), all license plates authorized or issued pursuant to subsections (a), (e) and (g) shall be jointly included in any determinations for initial issuance and continuation of issuance. If Fraternal Order of Police specialty earmarked plates are subsequently deemed obsolete pursuant to § 55-4-201(h)(1), such determination shall also apply to all Fraternal Order of Police license plates issued prior to July 1, 2011.

55-4-327. International Association of Firefighters.

(a) An owner or lessee of a motor vehicle who is a resident of Tennessee, and who is certified a member of the International Association of Firefighters, upon complying with state motor vehicle laws relating to registration and licensing of motor vehicles and paying the regular fee applicable to the motor vehicle and the fee provided for in § 55-4-204, shall be issued an International Association of Firefighters new specialty earmarked license plate for a motor vehicle authorized by § 55-4-210(c).

(b) The application for these new specialty earmarked plates shall be accompanied by proof, satisfactory to the commissioner, certifying the applicant to be a member of the International Association of Firefighters.

(c) The new specialty earmarked plates provided for in this section shall contain the logo of the International Association of Firefighters, and shall be designed in consultation with the executive director of the Tennessee chapter of the International Association of Firefighters.

(d) Funds produced from the sale of International Association of Firefighters new specialty earmarked license plates shall be allocated to the Tennessee Firefighters Emergency Relief Fund, in accordance with § 55-4-301.

(e) An International Association of Firefighters new specialty earmarked

license plate shall not convey any rights or privileges to the driver of a motor vehicle upon which the plates are displayed. No driver or passenger of a motor vehicle shall engage in any firefighting or emergency services situation, unless the person is otherwise authorized by law to perform those duties.

(f) Subject to the requirements of § 55-4-202, the commissioner is authorized and shall issue a license plate to an owner or lessee of a motorcycle who is otherwise eligible for an International Association of Firefighters new specialty earmarked license plate; provided, however, that the owner or lessee shall comply with the state motor vehicle laws relating to registration and licensing of motorcycles and shall pay the regular fee applicable to motorcycles and the applicable fee specified in § 55-4-204 prior to the issuance of the plate.

(g) For the purposes of § 55-4-202(h)(1), all license plates authorized or issued pursuant to subsections (a) and (f) shall be included jointly in any determinations for initial issuance and continuation of issuance.

55-4-328. [Obsolete.]

55-4-329. Masons.

(a) An owner or lessee of a motor vehicle who is a resident of Tennessee, upon complying with state motor vehicle laws relating to registration and licensing of motor vehicles and paying the regular fee applicable to the motor vehicle and the fee provided for in § 55-4-204, shall be issued a Masons new specialty earmarked license plate for a motor vehicle authorized by § 55-4-210(c).

(b) The application for the new specialty earmarked plates shall be accompanied by proof, satisfactory to the commissioner, certifying that the applicant is a member of the Free and Accepted Masons.

(c) The new specialty earmarked plates provided for in this section shall contain the logo of the Free and Accepted Masons and shall be designed in consultation with the Grand Lodge of the Free and Accepted Masons of the state of Tennessee.

(d)(1) Subject to the requirements of § 55-4-202, the commissioner is authorized and shall issue a registration plate to an owner or lessee of a motorcycle who is otherwise eligible for a Masons new specialty earmarked license plate; provided, however, that the owner or lessee shall comply with the state motor vehicle laws relating to registration and licensing of motorcycles and shall pay the regular fee applicable to motorcycles and the applicable fee specified in § 55-4-204 prior to the issuance of the plate.

(2) The motorcycle plates authorized by this section shall be substantially the same in design and configuration, allowing for variations due to size restrictions, as the regular motor vehicle registration plates authorized by § 55-4-203(c)(7), as applicable.

(e) Funds produced from the sale of the Masons new specialty earmarked license plates shall be allocated to the Masonic Widows' and Orphans' Home of Tennessee fund in accordance with § 55-4-301.

(f) Upon the death of the spouse who was entitled to receive the Masons new specialty earmarked license plate, the widow shall be entitled to receive a Masons new specialty earmarked license plate for a motor vehicle owned or leased by such widow, upon complying with state motor vehicle laws relating to registration and licensing of motor vehicles and paying the regular fee

applicable to the motor vehicle and the fee provided for in § 55-4-204. The application shall be accompanied by a copy of the death certificate.

55-4-330. Historic Franklin.

(a) An owner or lessee of a motor vehicle who is a resident of this state, upon complying with state motor vehicle laws relating to registration and licensing of motor vehicles and paying the regular fee applicable to the motor vehicle and the fee provided in § 55-4-204, shall be issued an Historic Franklin new specialty earmarked license plate for a motor vehicle authorized by § 55-4-210(c).

(b) The new specialty earmarked license plates shall be of an appropriate design representative of historic Franklin, Williamson County, Tennessee, and shall include the language "Historic Franklin." The plates shall be designed in consultation with Franklin Tomorrow, Inc.

(c) The funds produced from the sale of Historic Franklin new specialty earmarked license plates shall be allocated to Franklin Tomorrow, Inc., in accordance with § 55-4-301. The funds shall be used exclusively for Franklin Tomorrow's community-wide effort to create and implement a shared vision for the future of Franklin, Tennessee.

(d) Notwithstanding the time limitations of § 55-4-202(h)(1), the Historic Franklin new specialty earmarked license plates, authorized for issuance pursuant to this section, shall have until July 1, 2009, to meet the applicable minimum issuance requirements of § 55-4-202(h)(1).

55-4-331. [Obsolete.]

55-4-332. [Obsolete.]

55-4-333. [Obsolete.]

55-4-334. Tennessee Titans.

(a) An owner or lessee of a motor vehicle who is a resident of this state, complying with state motor vehicle laws relating to registration and licensing of motor vehicles and paying the regular fee applicable to the motor vehicle and the fee provided for in § 55-4-204, shall be issued a Tennessee Titans new specialty earmarked license plate for a motor vehicle authorized by § 55-4-210(c).

(b) The new specialty earmarked plates provided for in this section shall bear the official colors and logo of the Tennessee Titans National Football League (NFL) team and shall include the language "TITANS" in an appropriate design. The design of the plates shall be subject to the approval of the Tennessee Titans and the NFL, and shall additionally afford the trademark protection as the Tennessee Titans and the NFL shall require as otherwise permitted by law.

(c) In accordance with § 55-4-301, the funds produced from the sale of the Tennessee Titans new specialty earmarked license plates shall be allocated to the Tennessee Titans Foundation to be distributed in equal shares to the following organizations within thirty (30) days of allocation in the name of the Tennessee Titans Foundation and the state of Tennessee from the sale of specialty license plates:

(1) Camp Discovery;
(2) Jason Foundation;
(3) Boy Scouts of Tennessee;
(4) Girl Scouts of Tennessee;
(5) Boys & Girls Club of Tennessee;
(6) St. Jude Children's Research Hospital;
(7) Vanderbilt Children's Hospital;
(8) Baptist Hospital Maternity/Birthing Center;
(9) Tennessee State University Scholarship Fund; and
(10) Fisk University Scholarship Fund.

55-4-335. Nashville Predators.

(a) An owner or lessee of a motor vehicle who is a resident of this state, upon complying with state motor vehicle laws relating to registration and licensing of motor vehicles and paying the regular fee applicable to the motor vehicle and the fee provided for in § 55-4-204, shall be issued a Nashville Predators new specialty earmarked license plate for a motor vehicle authorized by § 55-4-210(c).

(b) The new specialty earmarked license plates shall be designed in consultation with an executive of the Nashville Predators.

(c) In accordance with § 55-4-301, the funds produced from the sale of these new specialty earmarked license plates shall be allocated to the Nashville Predators Foundation to be used in furtherance of the organization's activities in this state.

55-4-336. Memphis Grizzlies.

(a) An owner or lessee of a motor vehicle who is a resident of this state, upon complying with state motor vehicle laws relating to registration and licensing of motor vehicles and paying the regular fee applicable to the motor vehicle and the fee provided in § 55-4-204, shall be issued a Memphis Grizzlies new specialty earmarked license plate for a motor vehicle authorized by § 55-4-210(c).

(b) Such new specialty earmarked license plates shall contain the logo or other appropriate design representative of the Memphis Grizzlies. The plates shall be designed in consultation with the Memphis Grizzlies organization.

(c) The funds produced from the sale of the Memphis Grizzlies new specialty earmarked license plates shall be allocated to the Memphis Grizzlies Charitable Foundation, in accordance with § 55-4-301. The funds shall be used by the Foundation for its educational and mentoring programs and initiatives in Tennessee.

(d) Notwithstanding § 55-4-202(h)(1), the Memphis Grizzlies new specialty earmarked license plates authorized by this section shall have until July 1, 2015, to meet applicable initial issuance requirements of § 55-4-202(h)(1).

55-4-337. [Obsolete.]

55-4-338. University of Tennessee Lady Volunteers' NCAA National Championships.

(a)(1) An owner or lessee of a motor vehicle who is a resident of this state, upon complying with state motor vehicle laws relating to registration and

licensing of motor vehicles and paying the regular fee applicable to the motor vehicle and the fee provided for in § 55-4-204, shall be issued a University of Tennessee Lady Volunteers' NCAA National Championships new specialty earmarked license plate for a motor vehicle as authorized by § 55-4-210(c).

(2) The purpose of the new specialty earmarked plates is to commemorate and celebrate the University of Tennessee Lady Volunteer Basketball Team's three (3) consecutive NCAA Division 1 Women's Basketball Championships in 1996, 1997 and 1998. The new specially earmarked plates shall also commemorate the fourth consecutive NCAA Division 1 Women's Basketball Championship if the University of Tennessee Lady Volunteers win the championship in 1999. The new specialty earmarked plates shall also commemorate the NCAA Division I Women's Basketball Championship won by the University of Tennessee Lady Volunteers in 2007, which marks the team's seventh national championship. The new specialty earmarked plates shall also commemorate the NCAA Division I Women's Basketball Championship won by the University of Tennessee Lady Volunteers in 2008, which marks the team's eighth national championship.

(b) The new specialty earmarked plates provided for in this section shall contain the colors and logo of the University of Tennessee Lady Volunteers, and shall include the language "LADY VOLS NATIONAL CHAMPIONS" in an appropriate design. The plates shall be designed in consultation with the president of the University of Tennessee system.

(c)(1) The funds produced from the sale of the new specialty earmarked license plates, less the expense the state has incurred in designing and manufacturing the plates, shall be appropriated to the University of Tennessee at Knoxville women's athletics department in accordance with § 55-4-301. The funds shall be earmarked to be used exclusively to fund scholarships for women's athletics at the University of Tennessee at Knoxville.

(2) The funds may only be expended to fund activities authorized by this section. Any funds appropriated to the University of Tennessee pursuant to this section shall remain in reserve until expended for purposes consistent with this section, and shall not revert to the general fund on any June 30. Any interest earned on moneys appropriated to the University of Tennessee pursuant to this section shall not revert on any June 30, but shall remain available for appropriation in subsequent fiscal years.

55-4-339. University of Tennessee National Championship.

(a)(1) An owner or lessee of a motor vehicle who is a resident of this state, upon complying with state motor vehicle laws relating to registration and licensing of motor vehicles and paying the regular fee applicable to the motor vehicle and the fee provided for in § 55-4-204, shall be issued a University of Tennessee National Championship new specialty earmarked license plate for a motor vehicle authorized by § 55-4-210(c).

(2) The purpose of the new specialty earmarked plates is to commemorate and celebrate the University of Tennessee Volunteer football team's victory in the 1999 Fiesta Bowl and capture of the 1998-1999 National Championship.

(b) The new specialty earmarked plates provided for in this section shall contain the colors and logo of the University of Tennessee Volunteers, and shall

include the language "UNIVERSITY OF TENNESSEE NATIONAL CHAMPIONS" in an appropriate design. The plates shall be designed in consultation with the president of the University of Tennessee system.

(c)(1) The funds produced from the sale of the University of Tennessee National Championship new specialty earmarked license plates, less the expense the state has incurred in designing and manufacturing the plates, shall be appropriated to the University of Tennessee in accordance with § 55-4-301. The funds shall be deposited in the University of Tennessee-Knoxville general scholarship fund and shall be used exclusively to fulfill the academic mission of the University of Tennessee-Knoxville.

(2) The funds may only be expended to fund activities authorized by this section. Any funds appropriated to the University of Tennessee pursuant to this section shall remain in reserve until expended for purposes consistent with this section, and shall not revert to the general fund on any June 30. Any interest earned on moneys appropriated to the University of Tennessee pursuant to this section shall not revert on any June 30, but shall remain available for appropriation in subsequent fiscal years.

55-4-340. The Ohio State University.

(a) An owner or lessee of a motor vehicle who is a resident of this state, upon complying with state motor vehicle laws relating to registration and licensing of motor vehicles and paying the regular fee applicable to the motor vehicle and the fee provided for in § 55-4-204, shall be issued a The Ohio State University new specialty earmarked license plate for a motor vehicle authorized by § 55-4-210(c).

(b) The new specialty earmarked plates provided for in this section shall bear the official colors and logo of The Ohio State University and shall include the language "OHIO STATE" in an appropriate design. The design of the plates shall be approved by The Ohio State University prior to production, and shall additionally afford the trademark protection as The Ohio State University shall require as otherwise permitted by law. All uses of the colors and logo of The Ohio State University shall inure to the benefit of The Ohio State University.

(c) The funds produced from the sale of the new specialty earmarked license plates shall be allocated to the Ohio State Alumni Club of Middle Tennessee in accordance with § 55-4-301, to be used exclusively for funding scholarships for students from Tennessee.

(d) Notwithstanding § 55-4-202(h)(1), the new specialty earmarked license plates authorized pursuant to this section shall have until July 1, 2019, to meet the applicable minimum issuance requirements of § 55-4-202(h)(1).

(e) For purposes of § 55-4-202(h)(1), the Ohio State University new specialty earmarked plates authorized or issued pursuant to this section as it existed prior to April 27, 2016, shall be included jointly in any determinations for initial issuance and continuation of issuance of The Ohio State University new specialty earmarked plates authorized or issued pursuant to this section on or after April 27, 2016.

55-4-341. [Obsolete.]

55-4-342. Monroe Carell Jr. Children's Hospital at Vanderbilt.

(a) An owner or lessee of a motor vehicle who is a resident of this state, upon complying with state motor vehicle laws relating to registration and licensing of motor vehicles and paying the regular fee applicable to the motor vehicle and the fee provided for in § 55-4-204, shall be issued a Monroe Carell Jr. Children's Hospital at Vanderbilt new specialty earmarked license plate for a motor vehicle authorized by § 55-4-210(c).

(b) The purpose of this plate is to recognize and support the many contributions to children's health care made by the Monroe Carell Jr. Children's Hospital at Vanderbilt.

(c) The plates provided for in this section shall bear an appropriate design or logo that represents the commitment to children's health care exhibited by the Monroe Carell Jr. Children's Hospital at Vanderbilt. The new specialty license plates provided for in this section shall be designed in consultation with the Vanderbilt University Board of Trust.

(d) In accordance with § 55-4-301, the funds produced from the sale of the Monroe Carell Jr. Children's Hospital at Vanderbilt new specialty earmarked license plates shall be allocated to the Monroe Carell Jr. Children's Hospital at Vanderbilt.

55-4-343. East Tennessee Children's Hospital.

(a) Owners or lessees of motor vehicles who are residents of the state, upon complying with state motor vehicle laws relating to registration and licensing of motor vehicles and paying the regular fee applicable to the motor vehicle and the fee provided for in § 55-4-204, shall be issued an East Tennessee Children's Hospital new specialty earmarked license plate for a motor vehicle authorized by § 55-4-210(c).

(b) The new specialty earmarked license plates provided for in this section shall bear an appropriate design and shall be designed in consultation with the chair of the board of the East Tennessee Children's Hospital. The design of such plates may be identical to the East Tennessee Children's Hospital plates previously authorized by chapter 876 of the Public Acts of 2002.

(c) In accordance with § 55-4-301, the funds produced from the sale of such new specialty earmarked license plates shall be allocated to the East Tennessee Children's Hospital to be used in furtherance of such organization's activities in Tennessee.

(d) [Deleted by 2017 amendment.]

(e) Notwithstanding § 55-4-202(h)(1), the East Tennessee Children's Hospital new specialty earmarked license plates authorized pursuant to this section shall have until July 1, 2014, to meet the applicable minimum issuance requirements of § 55-4-202(h)(1).

55-4-344. Childrens' Hospital at Erlanger.

(a) An owner or lessee of a motor vehicle who is a resident of this state, upon complying with state motor vehicle laws relating to registration and licensing of motor vehicles and paying the regular fee applicable to the motor vehicle and the fee provided for in § 55-4-204, shall be issued a Children's Hospital at Erlanger new specialty earmarked license plate for a motor vehicle authorized

by § 55-4-210(c).

(b) The plates provided for in this section shall contain an appropriate logo or design representative of the Children's Hospital at Erlanger, and shall be designed in consultation with the Erlanger Health System Foundations.

(c) In accordance with § 55-4-301, the funds produced from the sale of the Children's Hospital at Erlanger new specialty earmarked license plates shall be allocated to the Erlanger Health System Foundations, to be used to support the construction of a new children's hospital in the City of Chattanooga.

55-4-345. Niswonger Children's Hospital.

(a) Owners or lessees of motor vehicles who are residents of this state, upon complying with state motor vehicle laws relating to registration and licensing of motor vehicles and paying the regular fee applicable to the motor vehicle and the fee provided for in § 55-4-204, shall be issued a Niswonger Children's Hospital new specialty earmarked plate for a motor vehicle authorized by § 55-4-210(c).

(b) The new specialty earmarked plates provided for in this section shall contain a logo or other design representative of the mission of Niswonger Children's Hospital. The plates shall be designed in consultation with the administration and governing body of Niswonger Children's Hospital.

(c) Funds produced from the sale of Niswonger Children's Hospital new specialty earmarked plates shall be allocated to the Mountain States Health Foundation in accordance with § 55-4-301. The funds shall be used for the sole purpose of developing and expanding Niswonger Children's Hospital, the Tri-Cities region's only children's hospital.

(d) [Deleted by 2017 amendment.]

(e)(1) Notwithstanding any law to the contrary, any person issued a Children's Hospital at Johnson City Medical Center new specialty earmarked plate authorized and issued pursuant to the former provisions of this section prior to July 1, 2009, shall be entitled to retain the license plate for vehicular use upon compliance with all motor vehicle laws relating to registration and licensing of motor vehicles and payment of all required fees.

(2) Children's Hospital at Johnson City Medical Center new specialty earmarked plates shall be included in any calculations for issuance and continuation of issuance of Niswonger Children's Hospital new specialty earmarked plates authorized pursuant to this section.

(3) No Children's Hospital at Johnson City Medical Center new specialty earmarked plate shall be required to be replaced with any redesigned license plate issued pursuant to this section until such time as the next regular replacement of the previously issued plate is scheduled; provided, that any person previously issued a Children's Hospital at Johnson City Medical Center new specialty earmarked plate may request a redesigned Niswonger Children's Hospital new specialty earmarked plate, if issued, at the time of their next regular renewal.

(4) If Niswonger Children's Hospital at Johnson City Medical Center new specialty earmarked plates are subsequently deemed obsolete pursuant to any provision of § 55-4-202(h)(1), such determination shall also apply to all Children's Hospital at Johnson City Medical Center new specialty earmarked plates previously issued.

(f) Notwithstanding § 55-4-202(h)(1), the Niswonger Children's Hospital

new specialty earmarked license plate authorized pursuant to this section shall have until July 1, 2019, to meet the applicable minimum issuance requirements of § 55-4-202(h)(1).

55-4-346. Regional Medical Center at Memphis (The MED).

(a) An owner or lessee of a motor vehicle who is a resident of this state, upon complying with state motor vehicle laws relating to registration and licensing of motor vehicles and paying the regular fee applicable to the motor vehicle and the fee provided for in § 55-4-204, shall be issued a "Regional Medical Center at Memphis (The MED)" new specialty earmarked license plate for a motor vehicle authorized by § 55-4-210(c).

(b) The purpose of the new specialty earmarked license plates provided for in this section is to honor the contribution of the Regional Medical Center at Memphis (The MED) in protecting and maintaining the public health and welfare. The plates provided for in this section shall be designed in consultation with the Regional Medical Center at Memphis (The MED).

(c) The funds produced from the sale of "Regional Medical Center at Memphis (The MED)" new specialty earmarked license plates shall be allocated to the Regional Medical Center at Memphis (The MED) in accordance with § 55-4-301.

55-4-347. Le Bonheur Children's Medical Center.

(a)(1) An owner or lessee of a motor vehicle who is a resident of this state, upon complying with state motor vehicle laws relating to registration and licensing of motor vehicles and paying the regular fee applicable to the motor vehicle and the fee provided for in § 55-4-204, shall be issued a Le Bonheur Children's Medical Center new specialty earmarked license plate for a motor vehicle authorized by § 55-4-210(c).

(2) The purpose of the plates is to recognize, commemorate and celebrate the many health care contributions made by Le Bonheur Children's Medical Center.

(b) The plates provided for in this section shall bear an appropriate design or logo that depicts through words and/or pictures the many health care contributions made by Le Bonheur Children's Medical Center. The plates shall be designed in consultation with the board of directors for Methodist Health Systems of Memphis and West Tennessee.

(c) In accordance with § 55-4-301(a)(1), Le Bonheur Children's Medical Center shall be the nonprofit organization to which fifty percent (50%) of the funds produced from the sale and renewal of Le Bonheur Children's Medical Center new specialty earmarked plates shall be allocated.

55-4-348. Nurses.

(a) Owners or lessees of motor vehicles who are residents of this state, upon complying with state motor vehicle laws relating to registration and licensing of motor vehicles and paying the regular fee applicable to the motor vehicle and the fee provided for in § 55-4-204, shall be issued a nurses new specialty earmarked license plate for a motor vehicle authorized by § 55-4-210(c).

(b) The purpose of the new specialty earmarked license plates provided for in this section is to honor the many contributions of this state's nurses in protecting and maintaining the public health and welfare. These plates shall

be designed in consultation with the Tennessee Nurses Foundation.

(c) The funds produced from the sale of nurses new specialty earmarked license plates shall be allocated to the Tennessee Nurses Foundation in accordance with § 55-4-301. The funds shall be used exclusively to benefit the programs of the Tennessee Nurses Foundation.

55-4-349. "Driving To A Cure" (Pink Ribbon).

(a) An owner or lessee of a motor vehicle who is a resident of this state, upon complying with state motor vehicle laws relating to registration and licensing of motor vehicles and paying the regular fee applicable to the motor vehicle and the fee provided for in § 55-4-204, shall be issued a "Driving To A Cure" new specialty earmarked license plate for a motor vehicle authorized by § 55-4-210(c).

(b) The new specialty earmarked license plates shall include the phrase "Driving To A Cure" in an appropriate design. The plates shall also include a pictorial representation of the universally recognized symbol for breast cancer awareness, the pink ribbon.

(c) The funds produced from the sale of the new specialty earmarked license plates shall be allocated to the Tennessee affiliates of the Susan G. Komen Foundation in accordance with § 55-4-301. The funds shall be used exclusively to provide grants to Tennessee organizations that were grantees of the Susan G. Komen Foundation before April 30, 2007, and continue to be grantees of the Susan G. Komen Foundation.

55-4-350. Choose Life.

(a) An owner or lessee of a motor vehicle who is a resident of this state, upon complying with state motor vehicle laws relating to registration and licensing of motor vehicles and paying the regular fee applicable to the motor vehicle and the fee provided for in § 55-4-204, shall be issued a Choose Life new specialty earmarked license plate for a motor vehicle authorized by § 55-4-210(c).

(b) The new specialty earmarked license plates provided for in this section shall contain an appropriate logo and design. The plates shall be designed in consultation with a representative of New Life Resources.

(c) The funds produced from the sale of Choose Life new specialty earmarked license plates shall be allocated to New Life Resources in accordance with § 55-4-301. New Life Resources is a 501(c)(3) nonprofit organization incorporated in 1995 to provide resources for women and families facing difficult or unexpected pregnancies. The funds shall be used exclusively for counseling and financial assistance, including food, clothing, and medical assistance for pregnant women in Tennessee; coordinating statewide awareness campaigns and a toll-free helpline; and reimbursing social service providers who prepare adoptions throughout the state for services and programs targeting at-risk women and families.

55-4-351. Youth villages.

(a) An owner or lessee of a motor vehicle who is a resident of this state, upon complying with state motor vehicle laws relating to registration and licensing of motor vehicles and paying the regular fee applicable to the motor vehicle and the fee provided for in § 55-4-204, shall be issued a "Youth Villages" new specialty earmarked license plate for a motor vehicle authorized by

§ 55-4-210(c).

(b) The new specialty earmarked license plates provided for in this section shall contain an appropriate logo or design representative of the mission of Youth Villages. The plates shall be designed in consultation with the chief development officer of Youth Villages.

(c) The funds produced from the sale of "Youth Villages" new specialty earmarked license plates shall be allocated to Youth Villages in accordance with § 55-4-301. The funds shall be used exclusively for Youth Villages' Transitional Living Program in Tennessee.

55-4-352. Dollywood Foundation.

(a) An owner or lessee of a motor vehicle who is a resident of this state, upon complying with state motor vehicle laws relating to registration and licensing of motor vehicles and paying the regular fee applicable to the motor vehicle and the fee provided in § 55-4-204, shall be issued a Dollywood Foundation new specialty earmarked license plate for a motor vehicle authorized by § 55-4-210(c).

(b) The new specialty earmarked license plates provided for in this section shall be designed in consultation with a representative from the Dollywood Foundation.

(c) The funds produced from the sale of the Dollywood Foundation new specialty earmarked license plates shall be allocated to the Dollywood Foundation in accordance with § 55-4-301. The funds shall be used to support and promote childhood literacy through Dolly Parton's Imagination Library.

55-4-353. [Obsolete.]

55-4-354. Autism Awareness.

(a) Owners or lessees of motor vehicles who are residents of Tennessee, upon complying with state motor vehicle laws relating to registration and licensing of motor vehicles and paying the regular fee applicable to the motor vehicle and the fee provided for in § 55-4-204, shall be issued an Autism Awareness new specialty earmarked license plate for a motor vehicle authorized by § 55-4-210(c).

(b) The new specialty earmarked license plates provided for in this section shall bear a logo or other appropriate emblem designed to raise public awareness about autism. Such plates shall be designed in consultation with ASMT, Inc.

(c) In accordance with § 55-4-301, funds produced from the sale of the Autism Awareness new specialty earmarked license plates shall be allocated to ASMT, Inc. for distribution to ASMT, Inc., Autism Society of East Tennessee, and the Autism Society of the MidSouth as nonprofit organizations dedicated to informational and referral services in their respective grand divisions and exempted from the payment of federal income taxes under 26 U.S.C. § 501(c)(3) of the Internal Revenue Code. Such funds shall be used exclusively to support, educate, advocate, and raise public awareness about autism in Tennessee.

(d) Notwithstanding § 55-4-202(h)(1), the Autism Awareness new specialty earmarked license plates authorized pursuant to this section shall have until July 1, 2014, to meet the applicable minimum issuance requirements of § 55-4-202(h)(1).

55-4-355. Pat Summitt Foundation.

(a) An owner or lessee of a motor vehicle who is a resident of this state, upon complying with state motor vehicle laws relating to registration and licensing of motor vehicles and paying the regular fee applicable to the motor vehicle and the fee provided in § 55-4-204, shall be issued a Pat Summitt Foundation new specialty earmarked license plate for a motor vehicle authorized by § 55-4-210(c).

(b) The new specialty earmarked license plates provided for in this section shall be designed in consultation with a representative from the Pat Summitt Foundation.

(c) The funds produced from the sale of the Pat Summitt Foundation new specialty earmarked license plates shall be allocated to the Pat Summitt Foundation in accordance with § 55-4-301. The funds shall be used to award grants to nonprofit organizations that advance research for treatment and a cure for Alzheimer's disease, provide support for patients and caregivers, and educate the public on Alzheimer's disease.

(d) Notwithstanding § 55-4-202(h)(1), the Pat Summitt Foundation new specialty earmarked license plate authorized pursuant to this section shall have until July 1, 2018, to meet the applicable minimum issuance requirements of § 55-4-202(h)(1).

55-4-356. [Obsolete.]

55-4-357. [Obsolete].

55-4-358. [Obsolete.]

55-4-359. [Obsolete.]

55-4-360. Mothers Against Drunk Driving (MADD).

(a) An owner or lessee of a motor vehicle who is a resident of this state, upon complying with state motor vehicle laws relating to registration and licensing of motor vehicles, and paying the regular fee applicable to the motor vehicle and the fee provided for in § 55-4-204, shall be issued a Mothers Against Drunk Driving (MADD) new specialty earmarked license plate for a motor vehicle authorized by § 55-4-210(c).

(b) The new specialty earmarked license plates provided for in this section shall contain the logo of Mothers Against Drunk Driving (MADD) and shall be designed in consultation with the executive director of the Tennessee chapter of Mothers Against Drunk Driving (MADD).

(c) In accordance with § 55-4-301, the funds produced from the sale of the Mothers Against Drunk Driving (MADD) new specialty earmarked license plates shall be allocated to the Tennessee chapter of Mothers Against Drunk Driving (MADD), to be used in furtherance of the organization's mission to protect families from drivers under the influence of alcohol, drugs, and other controlled substances, and from underage drinking.

(d) Notwithstanding § 55-4-202(h)(1), the Mothers Against Drunk Driving (MADD) new specialty earmarked license plate authorized pursuant to this section shall have until July 1, 2019, to meet the applicable minimum issuance requirements of § 55-4-202(h)(1).

55-4-361. [Obsolete.]

55-4-362. [Obsolete.]

55-4-363. Martin Luther King, Jr.

(a) An owner or lessee of a motor vehicle who is a resident of this state, upon complying with state motor vehicle laws relating to registration and licensing of motor vehicles and paying the regular fee applicable to the motor vehicle and the fee provided for in § 55-4-204, shall be issued a Martin Luther King, Jr., new specialty earmarked license plate for a motor vehicle authorized by § 55-4-210(c).

(b) The new specialty earmarked license plates provided for in this section shall contain the official logo or other design representative of Disciples Embracing Christian Education Bible College. Such plates shall be designed in consultation with Disciples Embracing Christian Education Bible College.

(c) The funds produced from the sale of Martin Luther King, Jr., new specialty earmarked license plates shall be allocated to Disciples Embracing Christian Education Bible College in accordance with § 55-4-301. Such funds shall be used exclusively to support education in this state, the National Civil Rights Museum, the Whiteville Food Bank, and the Sickle Cell Foundation of Tennessee.

(d) Notwithstanding § 55-4-202(h)(1), the Martin Luther King, Jr. new specialty earmarked license plate authorized pursuant to this section shall have until July 1, 2019, to meet the applicable minimum issuance requirements of § 55-4-202(h)(1).

55-4-364. Memphis Rock 'n' Soul Museum.

(a) An owner or lessee of a motor vehicle who is a resident of this state, upon complying with state motor vehicle laws relating to registration and licensing of motor vehicles and paying the regular fee applicable to the motor vehicle and the fee provided for in § 55-4-204, shall be issued a Memphis Rock 'n' Soul Museum new specialty earmarked license plate for a motor vehicle authorized by § 55-4-210(c).

(b) The new specialty earmarked plates provided for in this section shall contain the logo or other distinctive emblem of the Memphis Rock 'n' Soul Museum in an appropriate design and contain the language "The State of American Music." Such plates shall be designed in consultation with a representative as designated by the Memphis Rock 'n' Soul Museum.

(c) The funds produced from the sale of such new specialty earmarked license plates shall be allocated to the Memphis Rock 'n' Soul Museum in accordance with § 55-4-301 to be used for music educational programs and developing an oral history program of musical legends in this state.

(d) Notwithstanding § 55-4-202(h)(1), the Memphis Rock 'n' Soul Museum new specialty earmarked license plates authorized for issuance pursuant to this section shall have until July 1, 2012, to meet applicable initial issuance requirements of § 55-4-202(h)(1).

55-4-365. Tennessee Association of Realtors.

(a) Owners or lessees of motor vehicles who are residents of this state, who are certified members of the national association of realtors, upon complying

with state motor vehicle laws relating to registration and licensing of motor vehicles and paying the regular fee applicable to the motor vehicle and the fee provided for in § 55-4-204, shall be issued a Tennessee Association of Realtors new specialty earmarked license plate for a motor vehicle authorized by § 55-4-210(c).

(b) The new specialty earmarked license plates shall contain an appropriate logo and be designed in consultation with the Tennessee Association of Realtors.

(c) The funds produced from the sale of such Tennessee Association of Realtors new specialty earmarked license plates shall be allocated to the Tennessee Real Estate Educational Foundation in accordance with § 55-4-301. The funds shall be used exclusively to promote consumer protection through the education of real estate professionals in Tennessee.

(d) Notwithstanding any provision of part 1 of this chapter to the contrary, motor vehicles that are registered with Tennessee Association of Realtors new specialty earmarked license plates shall be deemed not to be commercial vehicles.

(e)(1) Subject to the requirements of § 55-4-202, the commissioner is authorized to and shall issue a registration plate to an owner or lessee of a motorcycle who is otherwise eligible for a Tennessee Association of Realtors new specialty earmarked license plate; provided, however, that the owner or lessee shall comply with the state motor vehicle laws relating to registration and licensing of motorcycles and shall pay the regular fee applicable to motorcycles and the applicable fee specified in § 55-4-203 prior to the issuance of the plate.

(2) The motorcycle plates authorized by this section shall be substantially the same in design and configuration, allowing for variations due to size restrictions, as the regular motor vehicle registration plates authorized by § 55-4-203(c)(7), as applicable.

55-4-366. [Obsolete.]

55-4-367. Suicide prevention.

(a) An owner or lessee of a motor vehicle who is a resident of this state, upon complying with state motor vehicle laws relating to registration and licensing of motor vehicles and paying the regular fee applicable to the motor vehicle and the fee provided for in § 55-4-204, shall be issued a Suicide Prevention new specialty earmarked license plate for a motor vehicle authorized by § 55-4-210(c).

(b) The new specialty earmarked license plates provided for in this section shall be of an appropriate design to promote suicide prevention and shall be designed in consultation with the Tennessee Suicide Prevention Network.

(c) The funds produced from the sale of Suicide Prevention new specialty earmarked license plates shall be allocated to the Mental Health Association of Middle Tennessee in accordance with § 55-4-301. Such funds shall be used exclusively to support the Tennessee Suicide Prevention Network and the organization's suicide prevention programs and activities in this state.

55-4-368. Domestic violence and sexual assault awareness.

(a) An owner or lessee of a motor vehicle who is a resident of this state, upon complying with state motor vehicle laws relating to registration and licensing

of motor vehicles and paying the regular fee applicable to the motor vehicle and the fee provided for in § 55-4-204, shall be issued a Domestic Violence and Sexual Assault Awareness new specialty earmarked license plate for a motor vehicle authorized by § 55-4-210(c).

(b) The new specialty earmarked license plates provided for in this section shall be of an appropriate design representative of the Tennessee Coalition to End Domestic and Sexual Violence. The plates shall be designed in consultation with the Tennessee Coalition to End Domestic and Sexual Violence.

(c) In accordance with § 55-4-301, the funds produced from the sale of Domestic Violence and Sexual Assault Awareness new specialty earmarked license plates shall be allocated to the Tennessee Coalition to End Domestic and Sexual Violence, of which fifty-percent allocation, five percent (5%) shall be used by the coalition to defray administrative fees and the remaining forty-five percent (45%) shall be divided by the coalition equally between the sexual assault centers and domestic violence centers. The funds shall be used exclusively to promote awareness of domestic violence and sexual assault and to also provide additional funding assistance for the programs offered through the Tennessee Coalition to End Domestic and Sexual Violence.

55-4-369. Lung cancer awareness.

(a) An owner or lessee of a motor vehicle who is a resident of this state, upon complying with state motor vehicle laws relating to registration and licensing of motor vehicles and paying the regular fee applicable to the motor vehicle and the fee provided for in § 55-4-204, shall be issued a Lung Cancer Awareness new specialty earmarked license plate for a motor vehicle authorized by § 55-4-210(c).

(b) The new specialty earmarked license plates provided for in this section shall be of an appropriate design to raise and promote lung cancer awareness and shall be designed in consultation with an authorized representative of the Huff Project.

(c) The funds produced from the sale of Lung Cancer Awareness new specialty earmarked license plates shall be allocated to the Huff Project in accordance with § 55-4-301. Such funds shall be used exclusively to support the organization's programs and activities in this state.

55-4-370. Methodist Le Bonheur Healthcare.

(a) An owner or lessee of a motor vehicle who is a resident of this state, upon complying with state motor vehicle laws relating to registration and licensing of motor vehicles and paying the regular fee applicable to the motor vehicle and the fee provided for in § 55-4-204, shall be issued a Methodist Le Bonheur Healthcare new specialty earmarked license plate for a motor vehicle authorized by § 55-4-210(c).

(b) The purpose of this plate is to recognize and celebrate Methodist Healthcare's one hundred (100) years of serving patients and families in the Memphis community.

(c) The plates provided for in this section shall contain an appropriate logo or design representative of Methodist Le Bonheur Healthcare that depicts its century of innovations and dedication to the future of medicine. The new specialty plate provided for in this section shall be designed in consultation with the administration at Methodist Healthcare.

(d) In accordance with § 55-4-301, the funds produced from the sale of the

Methodist Le Bonheur Healthcare new specialty earmarked license plates shall be allocated to Methodist Le Bonheur Healthcare, to be used to support its community health initiatives in this state.

55-4-371. Down syndrome awareness.

(a) An owner or lessee of a motor vehicle who is a resident of this state, upon complying with state motor vehicle laws relating to registration and licensing of motor vehicles and paying the regular fee applicable to the motor vehicle and the fee provided for in § 55-4-204, shall be issued a Down Syndrome Awareness new specialty earmarked license plate for a motor vehicle authorized by § 55-4-210(c).

(b) The new specialty earmarked license plates provided for in this section shall contain the logo or other appropriate design representative of the Down Syndrome Association of Middle Tennessee. The plates shall be designed in consultation with the Down Syndrome Association of Middle Tennessee.

(c) In accordance with § 55-4-301, the funds produced from the sale of the new specialty earmarked license plates shall be allocated to the Down Syndrome Association of Middle Tennessee. The funds shall be used solely to provide education, advocacy, and support resources for individuals with Down Syndrome and their families.

55-4-372. North Carolina State University.

(a) An owner or lessee of a motor vehicle who is a resident of this state, upon complying with state motor vehicle laws relating to registration and licensing of motor vehicles and paying the regular fee applicable to the motor vehicle and the fee provided for in § 55-4-204, shall be issued a North Carolina State University new specialty earmarked license plate for a motor vehicle authorized by § 55-4-210(c).

(b) The new specialty earmarked license plates provided for in this section shall bear the official colors and logo of the North Carolina State University and shall include the language "NC State University" in an appropriate design. The design of the plates shall be approved by the North Carolina State University prior to production, and shall additionally afford the trademark protection as the North Carolina State University shall require as otherwise permitted by law. All uses of the colors and logo of the North Carolina State University shall inure to the benefit of the North Carolina State University.

(c) The funds produced from the sale of North Carolina State University new specialty earmarked license plates shall be allocated to the North Carolina State University Alumni Association in accordance with § 55-4-301. The funds shall be used exclusively to support academic enrichment for students, including scholarships and educational opportunities for students from Tennessee.

55-4-373. University of South Carolina.

(a) An owner or lessee of a motor vehicle who is a resident of this state, upon complying with state motor vehicle laws relating to registration and licensing of motor vehicles and paying the regular fee applicable to the motor vehicle and the fee provided for in § 55-4-204, shall be issued a University of South Carolina new specialty earmarked license plate for a motor vehicle authorized

by § 55-4-210(c).

(b) The new specialty earmarked license plates provided for in this section shall bear the official colors and logo of the University of South Carolina.

(c) In accordance with § 55-4-301, the funds produced from the sale of University of South Carolina new specialty earmarked license plates shall be allocated to the Shady Valley Watershed District, which is a nonprofit corporation pursuant to § 69-6-104(a)(5). The funds shall be used exclusively to maintain the drainage ditches and to make other repairs to control the water level of the Beaver Dam Creek in the Shady Valley community of Johnson County, Tennessee.

55-4-374. Louisiana State University.

(a) An owner or lessee of a motor vehicle who is a resident of this state, upon complying with state motor vehicle laws relating to registration and licensing of motor vehicles and paying the regular fee applicable to the motor vehicle and the fee provided for in § 55-4-204, shall be issued a Louisiana State University new specialty earmarked license plate for a motor vehicle authorized by § 55-4-210(c).

(b) The new specialty earmarked license plates provided for in this section shall bear the official colors and logo of the Louisiana State University. The design of the plates shall be approved by Louisiana State University prior to production, and shall additionally afford the trademark protection as Louisiana State University shall require as otherwise permitted by law. All uses of the colors and logo of Louisiana State University shall inure to the benefit of Louisiana State University.

(c) In accordance with § 55-4-301, the funds produced from the sale of Louisiana State University new specialty earmarked license plates shall be allocated to the Louisiana State University Alumni Association. The funds shall be used exclusively to support academic enrichment for students, including scholarships and educational opportunities for students from Tennessee.

55-4-375. Kiwanis lnternational.

(a) An owner or lessee of a motor vehicle who is a resident of this state, upon complying with state motor vehicle laws relating to registration and licensing of motor vehicles and paying the regular fee applicable to the motor vehicle and the fee provided for in § 55-4-204, shall be issued a Kiwanis International new specialty earmarked license plate for a motor vehicle authorized by § 55-4-210(c).

(b) The new specialty earmarked license plates provided for in this section shall contain the logo or other appropriate design representative of Kiwanis International. Such plates shall be designed in consultation with a Tennessee representative of Kiwanis International.

(c) The funds produced from the sale of Kiwanis International new specialty earmarked license plates shall be allocated to Children's Miracle Network in accordance with § 55-4-301. Such funds shall be used exclusively to fund child life departments of Children's Miracle Network Hospitals in this state.

55-4-376. TN Back the Blue.

(a) An owner or lessee of a motor vehicle who is a resident of this state, upon complying with state motor vehicle laws relating to registration and licensing of motor vehicles and paying the regular fee applicable to the motor vehicle and the fee provided for in § 55-4-204, shall be issued a TN Back the Blue new specialty earmarked license plate for a motor vehicle authorized by § 55-4-210(c).

(b) The new specialty earmarked license plates provided for in this section shall contain the logo or other appropriate design representative of the Concerns of Police Survivors and shall include the language "Back the Blue". Such plates shall be designed in consultation with a Tennessee representative of the Concerns of Police Survivors.

(c) The funds produced from the sale of TN Back the Blue new specialty earmarked license plates shall be allocated to the Tennessee chapters of Concerns of Police Survivors in accordance with § 55-4-301. The funds shall be used to support the survivors, including spouses, parents, siblings, significant others, and affected co-workers, of state and local law enforcement officers in Tennessee killed in the line of duty through survivor benefits, counseling programs, scholarship programs, and other related programs and activities in this state that provide resources for survivors from Tennessee.

55-4-377. Mountain Tough Recovery Team.

(a) An owner or lessee of a motor vehicle who is a resident of this state, upon complying with state motor vehicle laws relating to registration and licensing of motor vehicles and paying the regular fee applicable to the motor vehicle and the fee provided for in § 55-4-204, shall be issued a Mountain Tough new specialty earmarked license plate for a motor vehicle authorized by § 55-4-210(c).

(b) The new specialty earmarked license plates provided for in this section shall contain the logo or other appropriate design representative of the Mountain Tough Recovery Team. The plates shall be designed in consultation with Mountain Tough Recovery Team.

(c) The funds produced from the sale of Mountain Tough new specialty earmarked license plates shall be allocated to the Mountain Tough Recovery Team in accordance with § 55-4-301. The funds shall be used exclusively to help the residents of Sevier County who were affected by the wildfires in the Fall of 2016 with donations to repair the damage and destruction to their property and to provide related cleanup assistance.

55-4-378. I Stand with Israel.

(a) An owner or lessee of a motor vehicle who is a resident of this state, upon complying with state motor vehicle laws relating to registration and licensing of motor vehicles and paying the regular fee applicable to the motor vehicle and the fee provided for in § 55-4-204, shall be issued an I Stand with Israel new specialty earmarked license plate for a motor vehicle authorized by § 55-4-210(c).

(b) The new specialty earmarked license plates provided for in this section shall be of an appropriate design and shall be designed in consultation with an authorized representative of the Tennessee Holocaust Commission.

(c) The funds produced from the sale of I Stand with Israel new specialty

earmarked license plates shall be allocated to the Tennessee Holocaust Commission in accordance with § 55-4-301. Such funds shall be used exclusively to support the organization's programs and activities in this state.

55-4-379. Boone Lake association.

(a) An owner or lessee of a motor vehicle who is a resident of this state, upon complying with state motor vehicle laws relating to registration and licensing of motor vehicles and paying the regular fee applicable to the motor vehicle and the fee provided for in § 55-4-204, shall be issued a Boone Lake Association new specialty earmarked license plate for a motor vehicle authorized by § 55-4-210(c).

(b) The new specialty earmarked license plates provided for in this section shall contain the official logo or other design representative of Boone Lake Association. Such plates shall be designed in consultation with a representative of Boone Lake Association.

(c) The funds produced from the sale of Boone Lake Association new specialty earmarked license plates shall be allocated to the Boone Lake Association, in accordance with § 55-4-301. Such funds shall be used exclusively to support the organization's efforts to clean and maintain Boone Lake.

55-4-380. Historic Maury.

(a) An owner or lessee of a motor vehicle who is a resident of this state, upon complying with state motor vehicle laws relating to registration and licensing of motor vehicles and paying the regular fee applicable to the motor vehicle and the fee provided for in § 55-4-204, shall be issued a Historic Maury new specialty earmarked license plate for a motor vehicle authorized by § 55-4-210(c).

(b) The new specialty earmarked license plates provided for in this section shall be of an appropriate design representative of historic Maury County and bear an image of or a design depicting the Maury County Courthouse dome. The plates shall be designed in consultation with a representative of the Maury County Historical Society.

(c) The funds produced from the sale of Historic Maury new specialty earmarked license plates shall be allocated to the Maury County Historical Society in accordance with § 55-4-301. The funds shall be used exclusively to preserve Maury County history with donations to repair historic structures and to provide related services and activities.

55-4-402. "Mobile home" defined.

"Mobile home" for the purposes of this part means:

(1) A self-propelled or nonself-propelled vehicle, with a length exceeding thirty-five feet (35′), so designed, constructed, reconstructed or added to by means of accessories in such manner as will permit the use thereof for human habitation, and so constructed to permit its being used as a conveyance upon public streets or highways; or

(2) Manufactured houses or portable modular units in excess of eight feet six inches (8′6″) in width or when towing vehicle and manufactured home are in excess of sixty feet (60′) in length.

55-6-102. Fees returnable — Causes.

(a) Whenever any application to the department or any county clerk is accompanied by any fee as required by law, and the application is refused or rejected, the fee shall be returned to the applicant.

(b) Whenever the department, or any county clerk of the state, through error, collects any fee not required to be paid hereunder, the fee shall be refunded to the person paying the fee upon application made within six (6) months after the date of the payment.

(c) Whenever the department declines to issue a certificate of title to any purchaser of a motor vehicle required to be registered hereunder, the applicant may, if the applicant has already applied for and received a registration of the motor vehicle, at any time within five (5) days from receipt of formal notice that the applicant's application for a certificate of title has been rejected, surrender the applicant's certificate of registration and registration plate or plates issued for the motor vehicle to the county clerk from whom they were purchased and be thereby entitled to an immediate refund of all the fees paid by the applicant for the registration of the motor vehicle, except, however, that the applicant shall not be entitled to any part of fees paid to the county clerk by virtue of § 55-4-208.

55-7-118 Use of state funds to enforce electronic logging regulations prohibited.

No state funds shall be expended to enforce electronic logging regulations against any motor vehicle transporting nonhazardous materials for farm purposes that does not travel outside the boundaries of the state.

55-7-205. Permits for moving vehicles of excess weight or size — Permits for towing vehicles of excess weight, height, length, or width.

(a)(1) The commissioner of transportation has the authority to grant special permits for the movements of freight motor vehicles carrying gross weights in excess of the gross weights set forth in § 55-7-203, or dimensions in excess of the dimensions set forth in §§ 55-7-201 and 55-7-202, and shall charge a fee in accordance with the fee schedules contained in subsection (h) for the issuance of a permit for each movement.

(2) The fee provisions shall not apply to farm tractors or farm machinery moving on any highway.

(3) It is not necessary to obtain a permit, nor is it unlawful to move any vehicle or machinery in excess of the maximum width and height prescribed in § 55-7-202, used for normal farm purposes only where the vehicle or machinery is hauled on a farm truck as defined in § 55-1-119, or the vehicle or machinery is being transported by a farm machinery equipment dealer or repair person in making a delivery of new or used equipment or machinery to the farm of the purchaser, or in making a pickup and delivery of the farm machinery or equipment from the farm to a shop of a farm equipment dealer or repair person for repairs and return to the farm, and the movement is performed during daylight hours within a radius of fifty (50) miles of the point of origin, and no part of such movement is upon any highway designated and known as a part of the national system of interstate and

defense highways or any fully controlled access highway facility.

(4) It is not necessary to obtain a permit nor is it unlawful to move any trailer or semitrailer utilized for transporting rolled hay bales; provided, that the width of the trailer or semitrailer, including any part of the load, does not exceed ten feet (10′) (that is five feet (5′) on each side of the centerline of the trailer or semitrailer), and the movement is performed during daylight hours within a radius of fifty (50) miles of the point of origin and no part of the movement is upon any highway designated and known as a part of the national system of interstate and defense highways or any fully controlled access highway facility or other federal-aid highway designated by the commissioner.

(5) No fee authorized by this section shall be charged for the issuance or renewal of such special permits to any retail electric service owned by a municipality or electric cooperative corporation, or to any telephone company or to contractors when they are moving utility poles doing work for such utilities.

(6) Upon compliance with the appropriate rules and regulations, such electric services, telephone companies, and their contractors, when they are moving utility poles, may be issued special permits for stated periods not exceeding one (1) year.

(7) All fees received shall be paid into the state treasury and placed in the highway fund for the administration of this section.

(8)(A) The commissioner has the authority to reduce the maximum gross weight of freight motor vehicles operating over lateral highways and secondary roads where, through weakness of structure in either the surface of or the bridges over the lateral highways or secondary roads, the maximum loads provided by law, in the opinion of the commissioner, injure or damage the roads or bridges.

(B) The county legislative body shall have the same authority as to county roads; provided, however, that any proposed reduction below the weight limits set by the commissioner pursuant to this section shall require a two-thirds (⅔) vote of the county legislative body and shall be based upon the same criteria as used by the commissioner.

(C) To the extent there is a conflict between this subdivision (a)(8) and any other general law or a private act, this subdivision (a)(8) shall govern.

(b)(1) The commissioner has the authority to grant a special permit with a duration of one (1) year for the movement of a single motor vehicle, that does not exceed the length limitation set forth in § 55-7-115 and the weight limitations set forth in § 55-7-203(b)(3), that has a width greater than one hundred two inches (102″) but not exceeding one hundred eight inches (108″), and that is used exclusively to transport seed cotton modules.

(2) This special permit will allow the vehicle to travel upon the interstate system of highways and other federal-aid highways designated by the commissioner.

(3) The cost of this special annual permit shall be one hundred dollars ($100).

(4) Solely during the harvest season for cotton, the movement of the vehicle operating under a special annual permit shall be unrestricted with respect to day of the week, time or holiday observation. At other times, the movement of the vehicle shall be subject to the rules and regulations which the commissioner has prescribed pursuant to subsection (e).

(c) The commissioner shall, at each bridge and on each lateral highway or

secondary road, post signs indicating the maximum gross weight permitted thereon, and it is unlawful to operate any freight motor vehicles thereon with a gross weight in excess of the posted weight limit, and any person violating the rules and regulations of the commissioner upon the secondary or lateral roads commits a Class A misdemeanor.

(d) The commissioner of safety shall, with the approval of the governor, provide means and prescribe rules and regulations governing the weighing of freight motor vehicles, which rules and regulations may make allowances for differentials in weight due to weather conditions.

(e)(1) The commissioner of transportation shall prescribe by orders of general application, rules and regulations for the issuance and/or renewal of these special permits for stated periods not exceeding one (1) year, for the transportation of such oversize, overweight, or overlength articles or commodities as cannot be reasonably dismantled or conveniently transported otherwise, and for the operation of such superheavy or overweight vehicles, motor trucks, semitrailers and trailers, whose gross weight, including load, height, width, or length, may exceed the limits prescribed herein or which in other respects fail to comply with the requirements of this code, as may be reasonably necessary for the transportation of these oversize, overweight, or overlength articles or commodities as cannot be reasonably dismantled or conveniently transported otherwise.

(2) For purposes of this subsection (e), a vehicle transporting fluid milk products shall be considered a nondivisible load that cannot be reasonably dismantled or conveniently transported otherwise.

(f) Permits shall be issued and may be renewed only upon the terms and conditions, in the interest of public safety and the preservation of the highways, as are prescribed in general rules and regulations promulgated by the orders of the commissioner.

(g) Rules and regulations so prescribed by the commissioner may require, as a condition of the issuance of these permits, that an applicant shall agree to and give bond with surety (unless an applicant shall by sworn statement furnish satisfactory proof of the applicant's own solvency to the authority issuing the permit) to indemnify the state and/or counties thereof, against damages to roads, or bridges, resulting from the use thereof by the applicant. Each permit and bond, if the commissioner so authorizes, may cover more than one (1) vehicle operated by the same applicant. The operation of vehicles, motor trucks, tractors, semitrailers or trailers in accordance with the terms of any such permit shall not constitute a violation of this part; provided, that the operator thereof shall have a permit, or a copy thereof, authenticated as the commissioner may require, in the operator's possession. The operation of any vehicle, motor truck, semitrailer or trailer, in violation of the terms of the permit, constitutes a violation of law punishable under § 55-7-206.

(h) The commissioner shall charge fees for granting special permits for the movements described in subsection (a) in accordance with the following schedules:

(1) Excessive width:

(A) Not more than fourteen feet (14′), twenty dollars ($20.00);

(B) Over fourteen feet (14′) but not more than sixteen feet (16′), thirty dollars ($30.00);

(C) Except as provided in subdivision (h)(1)(D), over sixteen feet (16′), thirty dollars ($30.00), plus five dollars ($5.00) for each additional foot or

fraction thereof greater than sixteen feet (16′);

(D)(i) For houseboats:

(a) Over sixteen feet (16′) but not more than eighteen feet (18′), five hundred dollars ($500);

(b) Over eighteen feet (18′) but not more than twenty feet (20′), seven hundred fifty dollars ($750); and

(c) Over twenty feet (20′), one thousand dollars ($1,000); and

(ii) All permits issued by the department pursuant to subdivision (h)(1)(D)(i) shall require three (3) escort vehicles that comply with the applicable rules and regulations and routing approval from the department. Permits shall only be issued under subdivision (h)(1)(D)(i) for movements on Tuesday, Wednesday, or Thursday;

(2) Excessive height or length:

Twenty dollars ($20.00);

(3) Excessive weight:

Twenty dollars ($20.00) plus six cents (6¢) per ton-mile;

(4) **Evaluation of bridges and similar structures.** The department shall, as it deems necessary, evaluate the capacity of bridges or similar structures to carry the proposed movement of an overweight or overdimensional load along a particular route, and the department shall charge the requestor for this evaluation each time a different route is proposed, as follows:

(A) Movements weighing over one hundred sixty-five thousand pounds (165,000 lbs.) but not more than two hundred fifty thousand pounds (250,000 lbs.), one hundred dollars ($100);

(B) Movements weighing over two hundred fifty thousand pounds (250,000 lbs.) but not more than five hundred thousand pounds (500,000 lbs.), three hundred dollars ($300); and

(C) Movements weighing over five hundred thousand pounds (500,000 lbs.), actual cost;

(5) A permit shall be available from the department of transportation on an annual basis for each specific vehicle to be used for transporting overdimensional or overweight loads, or both, except for those vehicles specifically permitted and used to transport cotton seed modules as provided in subsection (b), overdimensional boats used for noncommercial purposes as provided in subdivision (h)(6), mobile homes as provided in § 55-4-406, and towing vehicles used to transport wrecked, disabled, or abandoned vehicles under a towing permit as provided in subdivision (n)(5), as follows:

(A) For vehicles transporting loads up to but not exceeding thirteen feet ten inches (13′10″) in height, ninety feet (90′) in length, or twelve feet six inches (12′6″) in width, one hundred dollars ($100); provided, however, that vehicles transporting loads up to but not exceeding thirteen feet six inches (13′6″) in width may obtain an annual permit upon the condition that such overwidth movements shall be accompanied by an escort vehicle as required in the rules and regulations promulgated by the commissioner in accordance with this section;

(B) For vehicles transporting loads with excess weights up to but not exceeding one hundred thousand pounds (100,000 lbs.), seven hundred fifty dollars ($750);

(C) For vehicles transporting loads with excess weights over one hundred thousand pounds (100,000 lbs.) but not exceeding one hundred twenty thousand pounds (120,000 lbs.), one thousand five hundred dollars

($1,500);

(D) For vehicles transporting loads with excess weights over one hundred twenty thousand pounds (120,000 lbs.) but not exceeding one hundred forty thousand pounds (140,000 lbs.), two thousand two hundred fifty dollars ($2,250);

(E) For vehicles transporting loads with excess weights over one hundred forty thousand pounds (140,000 lbs.) but not exceeding one hundred fifty-five thousand pounds (155,000 lbs.), three thousand dollars ($3,000);

(F) For vehicles transporting loads over one hundred fifty-five thousand pounds (155,000 lbs.) but not exceeding one hundred sixty-five thousand pounds (165,000 lbs.), three thousand five hundred dollars ($3,500);

(G) Vehicles transporting loads that are both overdimensional and overweight shall be charged a separate annual fee for both overdimensional loads and overweight loads as provided in subdivisions (h)(5)(A)-(F);

(H) No annual permit shall be available for any vehicle transporting loads with weights exceeding one hundred sixty-five thousand pounds (165,000 lbs.) or dimensions exceeding thirteen feet ten inches (13′10″) in height, ninety feet (90′) in length, or thirteen feet six inches (13′6″) in width, and any such vehicle shall be required to obtain a special permit for the fee or fees otherwise established in subdivisions (h)(1)-(4) for a vehicle movement with excessive width, height, length, or weight; provided, however, that a vehicle holding an annual permit for excessive weight under subdivisions (h)(5)(B)-(F) may supplement that annual permit by obtaining a single trip permit allowing for the movement of a load with excessive width, height, or length not previously covered by an annual permit under this subdivision (h)(5); and

(I) Notwithstanding any vehicle movement authorized under an annual permit as provided in this subdivision (h)(5), no such vehicle shall be authorized to exceed any vehicle weight limit or limits posted on any bridge or highway by the public official having jurisdiction over such bridge or highway; and

(6) A permit shall be available from the department on an annual basis for individual owners of overdimensional boats used strictly for noncommercial pleasure purposes for double the amount of the regular fee described in subdivisions (h)(1) and (2).

(i) The authority issuing the permits has the right to revoke the permits at any time in the event that in the use of the permit the holder of a permit abuses the privilege given thereby, or otherwise makes wrongful use of the permit. The authorized county authorities (as well as the commissioner) may issue permits, but always consistently with rules and regulations, prescribed by the commissioner, for movements over any and all roads, except city streets, within the limits of the county for which they are acting.

(j) A violation of a material provision of a special permit shall render it void.

(k) Any statute, resolution or ordinance to the contrary notwithstanding, the authority of any county or city agency to issue permits is limited with respect to maximums for weight and dimensions to the maximums therefor approved by the commissioner.

(*l*)(1) Except as otherwise specifically set forth in this section, a special permit issued for movements of an overweight or overdimensional motor vehicle pursuant to subsection (a) shall allow for continuous movement twenty-four (24) hours a day, seven (7) days a week, and shall be valid for ten (10) calendar days for each single trip, except as provided in subdivision

(*l*)(2).

(2) A special permit issued by the commissioner for movements described in subsection (a):

(A) Shall not allow movement of vehicles exceeding twelve feet six inches (12′6″) in width, fifteen feet (15′) in height, or ninety feet (90′) in length on the interstate system of highways between the hours of seven o'clock a.m. (7:00 a.m.) to nine o'clock a.m. (9:00 a.m.) and four o'clock p.m. (4:00 p.m.) to six o'clock p.m. (6:00 p.m.) from Monday through Friday in counties having a population exceeding two hundred fifty thousand (250,000), according to the 2010 federal census or any subsequent federal census;

(B) May be subject to restrictions on movements during periods of heavy traffic volume associated with certain holidays, as follows:

(i) Easter: After six o'clock p.m. (6:00 p.m.) on the Thursday preceding Good Friday through and including Easter Sunday;

(ii) Memorial Day: After twelve o'clock (12:00) noon on the preceding Friday through Memorial Day;

(iii) Independence Day: July 3 and July 4; provided, that if July 4 is a Friday, Saturday, Monday, or Tuesday, the weekend day or days immediately following or preceding July 4, as applicable, may also be restricted;

(iv) Labor Day: After twelve o'clock (12:00) noon on the preceding Friday through Labor Day;

(v) Thanksgiving: After twelve o'clock (12:00) noon on the Wednesday before Thanksgiving through Sunday following Thanksgiving; and

(vi) Christmas/New Year's Day: December 24 through January 1; provided, that if December 24 is a Sunday or Monday, the weekend day or days immediately preceding December 24 may also be restricted; provided further, that if January 1 is a Friday or Saturday, the weekend day or days immediately following January 1 may also be restricted;

(C) May be subject to route restrictions based on conditions of the roadway or bridges and the weight or dimensions of the load;

(D) May be subject to restrictions on time of movement during inclement weather or weather-related emergencies when conditions prevail that could make movement unsafe; and

(E) For super heavy or extra-overdimensional loads exceeding one hundred sixty-five thousand pounds (165,000 lbs.), sixteen feet (16′) in width, or fifteen feet six inches (15′6″) in height, the time of movement may be restricted based on conditions of the road, traffic volumes, or other conditions affecting public safety and convenience as the commissioner may determine.

(3) This subsection (*l*) does not apply to special permits issued for movements of:

(A) Mobile homes as defined in § 55-4-402;

(B) Site-built houses;

(C) Houseboats; or

(D) Towing vehicles engaged in emergency towing movements in accordance with subsection (n).

(m) For any motor vehicle issued a special permit pursuant to subsection (a) that has a truck-tractor and semitrailer combination carrying a load in excess of width or length limitations, the load shall be marked as follows for movements between one-half (½) hour after sunset to one-half (½) hour before

sunrise:

(1) On each side of the projecting load, one (1) red side marker lamp, visible from the side, located so as to indicate maximum overhang; and

(2) On the rear of the projecting load:

(A) Two (2) red lamps, visible from the rear, one (1) at each side; and

(B) Two (2) red reflectors, visible from the rear, one (1) at each side, located so as to indicate maximum width.

(n)(1) Notwithstanding this section to the contrary, the commissioner of transportation is authorized to issue a special permit allowing a towing vehicle to transport wrecked, disabled, or abandoned vehicles on the state highway system, including the interstate highway system, when the towing vehicle, or the towing vehicle and towed vehicle in combination, exceeds the maximum vehicle or axle weights allowed under § 55-7-203(b), the maximum vehicle height or width allowed under § 55-7-202, or the maximum vehicle lengths allowed under § 55-7-201.

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

(A) "Emergency towing movement" means the towing of a wrecked, disabled, or abandoned vehicle from a location within or adjacent to the traffic lanes or shoulders of a highway to the nearest exit or repair or terminal facility within one hundred (100) miles from the location of the wreck, disablement, or abandonment along the highway;

(B) "Secondary towing movement" means any towing movement other than an emergency towing movement; and

(C) "Towing vehicle" means a vehicle used to tow wrecked, disabled, or abandoned vehicles.

(3) When transporting a wrecked, disabled, or abandoned vehicle, the combination of towing vehicle and towed vehicle shall be considered a nondivisible load that cannot be reasonably dismantled or conveniently transported otherwise.

(4) No towing vehicle or combination of towing vehicle and towed vehicle shall be authorized to exceed any total gross vehicle weight limits or axle weight limits posted on any bridge or highway by the public official having jurisdiction over such bridge or highway.

(5) The commissioner may issue a single trip permit or an annual permit for the movement of a towing vehicle that by itself or in combination with a towed vehicle exceeds the maximum vehicle or axle weights allowed under § 55-7-203(b), the maximum vehicle height or width allowed under § 55-7-202, or the maximum vehicle lengths allowed under § 55-7-201, subject to the following conditions:

(A) When not towing a wrecked, disabled, or abandoned vehicle, the towing vehicle shall not exceed thirteen feet six inches (13′6″) in height, nine feet (9′) in width, or forty-five feet (45′) in length. The maximum gross vehicle weight of the towing vehicle shall not exceed eighty-five thousand pounds (85,000 lbs.). The total weight on any single axle shall not exceed twenty-three thousand pounds (23,000 lbs.); the total weight on any tandem axle group shall not exceed forty-six thousand pounds (46,000 lbs.); and the total weight on any tridem axle group shall not exceed sixty thousand pounds (60,000 lbs.);

(B)(i) When towing a wrecked, disabled, or abandoned vehicle, the combination of towing vehicle and towed vehicle shall not exceed thirteen feet ten inches (13′10″) in height; twelve feet six inches (12′6″)

in width; or ninety feet (90′) in length if the movement is a secondary towing movement that is not exempt from length restrictions under § 55-7-201(h). These size limits shall apply to all annual permits and to single trip permits except as provided in subdivision (n)(5)(B)(ii); and

(ii) A towing movement exceeding the size limits set in subdivision (n)(5)(B)(i), but not exceeding fifteen feet (15′) in height or sixteen feet (16′) in width, may be permitted under a single trip permit in accordance with the rules of the department of transportation if the movement is accompanied by an escort vehicle or escort vehicles. For the purpose of complying with this escort vehicle requirement, the towing vehicle itself may substitute for a front escort vehicle so long as the towing vehicle is operating with flashing amber lights displayed to the front of the vehicle;

(C)(i) When towing a wrecked, disabled, or abandoned vehicle, the combination of the towing vehicle and towed vehicle shall not exceed one hundred sixty-five thousand pounds (165,000 lbs.) in total gross vehicle weight. The total weight on any single axle not in a tandem or tridem axle group shall not exceed twenty-five thousand pounds (25,000 lbs.); the total weight on any tandem axle group shall not exceed fifty thousand pounds (50,000 lbs.); and the total weight on any tridem axle group shall not exceed seventy-five thousand pounds (75,000 lbs.). These weight limits shall apply to all annual permits and to single trip permits except as provided in subdivision (n)(5)(C)(ii); and

(ii) A secondary towing movement exceeding the combined gross vehicle weight of one hundred sixty-five thousand pounds (165,000 lbs.), but not exceeding the maximum axle weight limits established in subdivision (n)(5)(C)(i), may be permitted under a single trip permit in accordance with the rules of the department of transportation, subject to the additional fees and charges provided in subdivision (n)(5)(E);

(D) The single trip permit or annual permit issued pursuant to this subdivision (n)(5) shall be issued to each specific towing vehicle that is engaged in the towing of wrecked, disabled, or abandoned vehicles; and

(E)(i) The cost of a single trip permit shall be in accordance with the fees established in subdivisions (h)(1)-(3) for overdimensional and overweight permits; provided, however, that if the combined weight of the towing vehicle and towed vehicle exceeds one hundred sixty-five thousand pounds (165,000 lbs.), the cost of the permit shall also include the additional fee of twelve cents (12¢) per ton-mile for all weight in excess of one hundred sixty-five thousand pounds (165,000 lbs.) together with the applicable charge for evaluating bridges and other structures as provided in subdivision (h)(4); and

(ii) The cost of an annual towing permit issued pursuant to this subdivision (n)(5) shall be five hundred dollars ($500). No annual permit shall be available for any towing movement where the combined weight of the towing vehicle and towed vehicle exceeds one hundred sixty-five thousand pounds (165,000 lbs.); provided, however, that a towing vehicle holding an annual permit may supplement that annual permit by obtaining a single trip permit allowing for the movement of additional excessive weight at the cost of twenty dollars ($20.00) plus twelve cents (12¢) per ton-mile for all weight in excess of one hundred sixty-five thousand pounds (165,000 lbs.) together with the applicable charge for evaluating bridges and other structures as provided in subdivision

(h)(4).

(6) A towing vehicle with a valid permit under subdivision (n)(5) may be authorized to undertake an emergency towing movement where the combination of the towing vehicle and the towed vehicle exceeds the height, width, or weight limits established in subdivision (n)(5) if the department of transportation, the department of safety, or a local traffic law enforcement agency requests the assistance of the towing vehicle to remove a wrecked, disabled, or abandoned vehicle from the highway. In such case, the wrecked, disabled, or abandoned vehicle shall be towed only to the nearest rest area, weigh station, truck parking area, or other safe location away from the highway traffic lanes and shoulders as designated by the agency requesting the assistance. The department of transportation may require a bridge evaluation pursuant to subdivision (h)(4) and may impose route restrictions based on the condition of the roadway and bridges.

55-8-101. Chapter and part definitions.

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 two thousand five hundred pounds (2,500 lbs.), that is eighty inches (80″) or less in width, 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) "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;

(22) "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;

(23) "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;

(24) "Farm tractor" means every motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines and other implements of husbandry;

(25) "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;

(26) "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;

(27) "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);

(28) "Gross weight" means the weight of a vehicle without load plus the weight of any load thereon;

(29) "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;

(30) "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;

(31) "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;

(32) "Laned roadway" means a roadway which is divided into two (2) or more clearly marked lanes for vehicular traffic;

(33) "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;

(34) "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;

(35) "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;

(36) "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;

(37) "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;

(38) "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;

(39) "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;

(40) "Motor vehicle" means every vehicle, including a low speed vehicle or a medium-speed vehicle that is self-propelled, excluding electric bicycles as defined in § 55-8-301 and motorized bicycles, and every 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;

(41) "Motorcycle" has the same meaning in § 55-1-103;

(42) "Motor-driven cycle" means every motorcycle, including every motor scooter, with a motor that produces not to exceed five (5) brake horsepower, or with a motor with a cylinder capacity not exceeding one hundred twenty-five cubic centimeters (125cc);

(43) "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;

(44) "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;

(45) "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;

(46) "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;

(47) "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;

(48) "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;

(49) "Pedestrian" means any person afoot or using a motorized or non-motorized wheelchair;

(50) "Person" means a natural person, firm, copartnership, association, corporation, or an engaged ADS;

(51) "Platoon" means a group of individual motor vehicles that are traveling in a unified manner at electronically coordinated speeds;

(52) "Pneumatic tire" means every tire in which compressed air is designed to support the load;

(53) "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;

(54) "Police officer" means every officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations;

(55) "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;

(56) "Railroad" means a carrier of persons or property upon cars, other than streetcars, operated upon stationary rails;

(57) "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;

(58) "Railroad train" means a steam engine, electric or other motor, with or without cars coupled thereto, operated upon rails, except streetcars;

(59) "Recovered materials" and "recyclable materials" have the same meanings as defined in § 68-211-802;

(60) "Recycling vehicle" means any vehicle that is designed and used exclusively for the collection or transportation of recovered materials or recyclable materials;

(61) "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;

(62) "Right-of-way" means the privilege of the immediate use of the roadway;

(63) "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;

(64) "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;

(65) "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;

(66) "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;

(67) "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;

(68) "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;

(69) "Solid tire" means every tire of rubber or other resilient material which does not depend upon compressed air for the support of the load;

(70) "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;

(71) "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 (71);

(72) "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;

(73) "Stop," when required, means complete cessation from movement;

(74) "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;

(75) "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;

(76) "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;

(77) "Streetcar" means a car other than a railroad train for transporting persons or property and operated upon rails principally within a municipality;

(78) "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 transpor-

tation shall be authorized to designate through highways;

(79) "Trackless trolley coach" means every motor vehicle that is propelled by electric power obtained from overhead trolley wires but not operated upon rails;

(80) "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;

(81) "Traffic" means pedestrians, ridden or herded animals, vehicles, streetcars and other conveyances either singly or together while using any highway for purposes of travel;

(82) "Traffic-control signal" means any device, whether manually, electrically or mechanically operated, by which traffic is alternately directed to stop and to proceed;

(83) "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;

(84) "Truck" means every motor vehicle designed, used or maintained primarily for the transportation of property;

(85) "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;

(86) "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

(87) "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.

55-8-160. Stopping, standing or parking prohibited in specific places — Penalty — Exceptions for disabled veterans and persons with physical disabilities.

(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 (7½′) 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.

55-8-185. Use of off-highway motor vehicles on highways.

(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 (⅔) 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 (⅔) 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 (⅔) 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.); and

(Q) State Route 53 beginning from the Granville Marina and Resort and ending at the Sutton Homestead in the Town of Granville.

(2) Drivers operating vehicles pursuant to subdivisions (c)(1), (3), and (4) 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), (3), and (4), 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; and

(G) U.S. Highway 441 (Norris Freeway) from its intersection with State Route 116 (U.S. Highway 25W) to 709 Norris Freeway.

(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 (⅔) 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 (½) hour after sunrise and one-half (½) 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.

55-9-108. 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.

55-9-402. Lights required on motor vehicles — Exceptions — Regulations as to color, type and visibility distance.

(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.

55-10-102. Accidents involving damage to vehicle. [Effective until January 1, 2019. See the version effective on January 1, 2019.]

(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 five hundred dollars ($500) or would appear to a reasonable person not to exceed five hundred dollars ($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 five hundred dollars ($500) or would appear to a reasonable person to exceed five hundred dollars ($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.

55-10-102. Accidents involving damage to vehicle. [Effective on January 1, 2019. See the version effective until January 1, 2019.]

(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.

55-10-107. Written report of accident. [Effective until January 1, 2019. See the version effective on January 1, 2019.]

(a) 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 four hundred dollars ($400) 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.

(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.

55-10-107. Written report of accident. [Effective on January 1, 2019. See the version effective until January 1, 2019.]

(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.

55-10-402. Penalty for violations of § 55-10-401 — Alternative facilities for incarceration — Public service work — Monitoring — Inpatient alcohol and drug treatment.

(a)(1)(A) Any person violating § 55-10-401, shall, upon conviction for the first offense, be sentenced to serve in the county jail or workhouse not less than forty-eight (48) consecutive hours nor more than eleven (11) months and twenty-nine (29) days.

(B) Any person violating § 55-10-401, upon conviction for the first offense with a blood alcohol concentration of twenty-hundredths of one percent (0.20%) or more, shall serve a minimum of seven (7) consecutive days rather than forty-eight (48) hours.

(2)(A) Any person violating § 55-10-401, shall, upon conviction for second offense, be sentenced to serve in the county jail or workhouse not less than forty-five (45) consecutive days nor more than eleven (11) months and twenty-nine (29) days.

(B) After sentencing the person to a period of confinement pursuant to subdivision (a)(2)(A), as a condition of probation, the judge may order the person to participate in a substance abuse treatment program, which includes any aftercare recommended by the treatment program, licensed or certified by the department of mental health and substance abuse services, which includes a certified drug court or DUI court, if the person first:

(i) Completes a clinical substance abuse assessment conducted pursuant to subsection (h); and

(ii) Serves at least twenty-five (25) days of the period of incarceration imposed in the county jail or workhouse.

(3)(A) Any person violating § 55-10-401, shall, upon conviction for third offense, be sentenced to serve in the county jail or workhouse not less than one hundred twenty (120) consecutive days nor more than eleven (11) months and twenty-nine (29) days.

(B) After sentencing the person to a period of confinement pursuant to subdivision (a)(3)(A), as a condition of probation the judge may order the person to participate in a substance abuse treatment program, which includes any aftercare recommended by the treatment program, licensed or certified by the department of mental health and substance abuse services, which includes a certified drug court or DUI court, if the person first:

(i) Completes a clinical substance abuse assessment conducted pursuant to subsection (h); and

(ii) Serves at least sixty-five (65) days of the period of incarceration imposed in the county jail or workhouse.

(4) Any person violating § 55-10-401, upon conviction for a fourth or fifth offense, shall be sentenced as a felon to serve not less than one hundred fifty (150) consecutive days nor more than the maximum punishment authorized for the appropriate range of a Class E felony.

(5)(A) A sixth or subsequent conviction for violating § 55-10-401, or any other applicable prior conviction as described in § 55-10-405(c), is a Class C felony and any person sentenced under this subdivision (a)(5) shall be sentenced to serve no less than the minimum sentence of imprisonment established in subdivision (a)(4) for a fourth offender, and not more than the maximum punishment authorized for the appropriate range of a Class C felony. For this subdivision (a)(5) to be applicable, the person shall:

(i) Have at least five (5) previous convictions for violations of § 55-10-401, or any other applicable prior conviction as described in § 55-10-405(c);

(ii) Commit a sixth or subsequent violation of § 55-10-401; and

(iii) Commit the sixth or subsequent violation on or after July 1, 2016.

(B) In addition to the required term of imprisonment for a sixth or subsequent offense, all of the collateral consequences of a violation of

§ 55-10-401, including a fine, forfeiture, driver license suspension or revocation, interlock, transdermal, and other monitoring devices, substance abuse assessments, in-patient or out-patient treatment, drug court or DUI court, and conditions of probation shall also apply to a sixth or subsequent offender.

(b)(1) If a person is convicted of a violation of § 55-10-401, and at the time of the offense, the person was accompanied by a child under eighteen (18) years of age, the person's sentence shall be enhanced by a mandatory minimum period of incarceration of thirty (30) days. The incarceration enhancement shall be served in addition to any period of incarceration received for the violation of § 55-10-401.

(2) Notwithstanding subsection (a), if, at the time of the offense, the person was accompanied by a child under eighteen (18) years of age, and the child suffers serious bodily injury as the proximate result of the violation of § 55-10-401, the person commits a Class D felony and shall be punished as provided in § 39-13-106, for vehicular assault.

(3) Notwithstanding subsection (a), if, at the time of the offense, the person was accompanied by a child under eighteen (18) years of age, and the child is killed as the proximate result of the violation of § 55-10-401, the person commits a Class B felony and shall be punished as provided in § 39-13-213(b)(2), for vehicular homicide involving intoxication.

(c) Subdivisions (b)(1)-(3) constitute an enhanced sentence, not a new offense.

(d)(1) After service of at least the minimum sentence day for day, the judge has the discretion to require an individual convicted of a violation of § 55-10-401 to remove litter from the state highway system, public playgrounds, public parks or other appropriate locations for any prescribed period or to work in a recycling center or other appropriate location for any prescribed period of time in lieu of or in addition to any of the penalties otherwise provided in this section; provided, that any person sentenced to remove litter from the state highway system, public playgrounds, public parks or other appropriate locations or to work in a recycling center shall be allowed to do so at a time other than the person's regular hours of employment.

(2)(A) The court may order any person convicted of a violation of § 55-10-401 to be subject to monitoring using one (1) or more of the following:

(i) Transdermal monitoring device or other alternative alcohol or drug monitoring device;

(ii) Electronic monitoring with random alcohol or drug testing;

(iii) Global positioning monitoring system pursuant to § 40-11-152; or

(iv) Any other monitoring device the court believes necessary to ensure the person complies with the conditions of probation and, if applicable, the results of the clinical substance abuse assessment.

(B) If the court orders a person to be subject to monitoring as provided in subdivision (d)(2)(A), 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:

(i) Require periodic reporting by the person for verification of the proper operation of the monitoring device;

(ii) Require the person to have the device monitored for proper use and accuracy by an entity approved by the supervising entity at least every thirty (30) days, or more frequently as the circumstances may require; and

(iii) Immediately notify the court of any of the person's violations of this subdivision (d)(2), which shall be considered a violation of the conditions of probation.

(e) All persons sentenced under this part 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 probation.

(f)(1) An offender sentenced to a period of incarceration for a violation of § 55-10-401, shall be required to commence service of the sentence within thirty (30) days of conviction or, if space is not immediately available in the appropriate municipal or county jail or workhouse within such time, as soon as such space is available. If, in the opinion of the sheriff or chief administrative officer of a local jail or workhouse, space will not be available to allow an offender convicted of a violation of § 55-10-401, to commence service of the sentence, the sheriff or administrative officer shall use alternative facilities for the incarceration of the offender.

(2)(A) As used in this subsection (f), "alternative facilities" include, but are not limited to, vacant schools or office buildings or any other building or structure that would be suitable for housing DUI offenders for short periods of time on an as-needed basis and licensed through the department of mental health and substance abuse services for the state.

(B) The court may approve a private appropriately licensed substance abuse treatment program as an "alternative facility." If a person is ordered to participate in a court-approved private appropriately licensed substance abuse treatment program, that person shall be responsible for the cost and fees involved with the program, whether it be a prepayment or pay as you go program. The court does not have the authority to order the expenditure of public funds to provide for participation in such a program. However, if a person ordered to participate in such a program is indigent, the court may allow the person, subject to availability of services, to enter any program that provides the treatment without cost to an individual.

(3) Nothing in this subsection (f) shall be construed to give an offender a right to serve a sentence for a violation of § 55-10-401, in an alternative facility or within a specified period of time. Failure of a sheriff or chief administrative officer of a jail to require an offender to serve the sentence within a certain period of time or in a certain facility or type of facility shall have no effect upon the validity of the sentence.

(g) Notwithstanding this section to the contrary, in counties with a metropolitan form of government and a population in excess of one hundred thousand (100,000), according to the 1990 federal census or any subsequent federal census, the judge exercising criminal jurisdiction may sentence a person convicted of violating § 55-10-401 for the first time to perform two hundred (200) hours of public service work in a supervised public service program in lieu of the minimum period of confinement required by subsection (a).

(h)(1) The clinical substance abuse assessment required before a person is ordered to participate in a substance abuse treatment program as a condition of probation pursuant to subdivisions (a)(2) or (a)(3), shall be

administered to the person by qualified alcohol and drug abuse treatment personnel, as that term is defined by rules promulgated by the department of mental health and substance abuse services. If the assessment determines the person is in need of substance abuse treatment, the court may, using the assessment to determine the appropriate level of care, order the person referred to an appropriate substance abuse treatment program licensed or certified by the department of mental health and substance abuse services, including a certified drug court or DUI court.

(2) A person ordered to attend a substance abuse treatment program pursuant to subdivisions (a)(2) or (a)(3) shall receive sentence reduction credits from the period of incarceration imposed by the court as follows:

(A) Day-for-day credit for the period of time the person spends in a residential treatment program; and

(B) One (1) day of credit for every nine (9) hours of successfully completed intensive outpatient treatment.

(3)(A) Upon the successful completion of the substance abuse treatment program, the program provider shall notify the court of the fact that treatment was successfully completed and the number of days the person spent in residential treatment, or the number of hours spent in intensive outpatient treatment, whichever is applicable. The court shall calculate the sentence reduction credits the person has earned based upon the service provider's report.

(B) If the person ceases to attend the substance abuse treatment program, the service provider shall notify the court of the person's absence within three (3) business days of the date the provider knew or should have known of such absence. If the person fails to successfully complete the program for any other reason, the provider shall notify the court of such failure.

(4) A person who does not successfully complete the substance abuse treatment program to which the person is ordered is in violation of the person's probation, and the court shall order the person committed to the county jail or workhouse for service of the full period of the mandatory minimum confinement required by law and any portion of confinement in excess of the minimum imposed by the court that the court deems necessary. The person shall receive no sentence reduction credits for any time spent in the substance abuse treatment program prior to failure to complete the program.

(5) Upon successful completion of a substance abuse treatment program, the person shall be required to report to the county jail or workhouse to serve the remainder of any mandatory period of confinement required by law and imposed by the court. Failure to do so is a violation of the person's probation.

(6) If a person voluntarily attends residential treatment after arrest but before sentencing, the person may receive sentence reduction credits for completion of residential treatment if the person is ordered to treatment by the judge as a condition of probation. However, before commencing any court-ordered treatment program, the person must undergo a clinical substance abuse assessment as provided in subdivision (h)(1), serve the mandatory minimum sentence provided in subdivision (a)(2)(B) or (a)(3)(B), and follow the recommendations of the assessment.

(7) If the court orders intensive outpatient treatment, it may also order:

(A) The use of transdermal monitoring devices or other alternative alcohol or drug monitoring devices. If the court determines that the person

is indigent, the court shall order the person to pay any portion of the costs of such a device for which the person has the ability to pay, as determined by the court. Any portion of the costs of such a device that the person is unable to pay shall come from the electronic monitoring indigency fund established pursuant to § 55-10-419;

(B) The use of electronic monitoring with random alcohol or drug testing;

(C) The use of a global positioning monitoring system pursuant to § 40-11-152; or

(D) The use of any other monitoring device the court believes necessary to ensure the person complies with the results of the assessment and the conditions of probation.

(i)(1) Ordering a person to treatment as a condition of probation pursuant to subdivision (a)(2), (a)(3), and subsection (h) for a second or third violation of § 55-10-401 is solely within the discretion of the judge as an available sentencing option. Failure to grant such person such treatment is not appealable, except for abuse of discretion.

(2) Nothing in this section shall be construed as creating a right for a person convicted of a second or third violation of § 55-10-401 to receive:

(A) A clinical substance abuse assessment;

(B) Intensive outpatient treatment;

(C) Residential treatment;

(D) Enrollment in a state certified treatment program, including drug court or DUI court; or

(E) Any sentence reduction credits for substance abuse treatment that would reduce the period of incarceration imposed by the court other than those earned and retained pursuant to subdivision (h)(2)(A) and (B).

(3)(A) Nothing in this section authorizing a judge to order any of the options specified in subdivision (i)(2) shall be construed to affect or limit any restrictions a judge may place or is required to place on a person convicted of a second or third violation of § 55-10-401 by other provisions of law, including the use of an ignition interlock device under § 55-10-409.

(B) This section governs those instances in which a person is convicted of a second or third violation of § 55-10-401 and the judge chooses to order the person to participate in a substance abuse treatment program as a condition of probation pursuant to this section. In those instances in which the person is a second or third offender but the judge declines to order treatment pursuant to this section, or in which the person is convicted of a first or fourth or subsequent violation of § 55-10-401, § 55-10-410 applies.

(j)(1) The court is not empowered to order the expenditure of public funds to provide treatment. However, if a person ordered to participate in such a program is indigent, the court may allow the person, subject to availability of services, to enter any program that provides the treatment without cost to an individual. When making a finding as to the indigency of an accused, the court shall take into consideration:

(A) The nature of the program services rendered;

(B) The usual and customary charges for rendering such program services in the community;

(C) The income of the person regardless of source;

(D) The poverty level guidelines compiled and published by the United

States department of labor;

(E) The ownership or equity of any real or personal property of the person; and

(F) Any other circumstances presented to the court that are relevant to the issue of indigency.

(2) If a person ordered to participate is not indigent and participates in a program that provides treatment without cost to an individual, that person shall be obligated to pay for treatment in the same manner as provided in § 33-2-1102. If a person ordered to participate, participates in a court approved private treatment program, that person shall be responsible for the cost and fees involved with the program.

(k) If a person commits a second or third violation of 55-10-401 prior to July 1, 2014, but the conviction for such offense does not occur until after July 1, 2014, the person shall elect to the judge at the time of conviction whether to come within the provisions of chapter 902 of the Public Acts of 2014, or be sentenced in accordance with the law in effect at the time the offense was committed.

55-10-408. Tests for alcohol or drug content of blood — Procurement and processing of samples — Results — Additional testing.

(a) The procurement of a sample of a person's blood for the purpose of conducting a test to determine the alcohol content, drug content, or both, of the blood shall be considered valid if the sample was collected by a person qualified to do so, as listed in § 55-10-406(h)(2), or a person acting at the direction of a medical examiner or other physician holding an unlimited license to practice medicine in Tennessee under procedures established by the department of health.

(b)(1) Upon receipt of a specimen forwarded to the director's office or an accredited crime laboratory for analysis, and the "toxicology request for examination" form, which shall indicate whether or not a breath alcohol test has been administered and the results of that test, the director of the Tennessee bureau of investigation or the director of an accredited crime laboratory shall have the specimen examined for alcohol concentration, the presence of narcotics or other drugs, or for both alcohol and drugs, if requested by the arresting officer, county medical examiner, or any district attorney general. The office of the director of the Tennessee bureau of investigation or the director of an accredited crime laboratory shall execute a certificate or report that indicates the name of the accused, the date, the time, and by whom the specimen was received and examined, and a statement of the alcohol concentration or presence of drugs in the specimen.

(2) As used in this section, "accredited crime laboratory" shall be limited to those crime laboratories that:

(A) Are owned and operated by this state or a political subdivision of this state;

(B) Are accredited under ISO/IEC/17025, with associated supplemental requirements; and

(C) Provide testing within the scope of the accreditation sufficient to meet the requirements as forensic service providers.

(c) When a specimen taken in accordance with this section is forwarded for testing to the office of the director of the Tennessee bureau of investigation, a report of the results of this test shall be made and filed in that office, and a copy

mailed to the district attorney general for the district where the case arose.

(d) The certificate provided for in this section shall, when duly attested by the director of the Tennessee bureau of investigation or the director's duly appointed representative, be admissible in any court, in any criminal proceeding, as evidence of the facts therein stated, and of the results of the test, if the person taking or causing to be taken the specimen and the person performing the test of the specimen shall be available, if subpoenaed as witnesses, upon demand by either party to the cause, or, when unable to appear as witnesses, shall submit a deposition upon demand by either party to the cause.

(e) The person tested shall be entitled to have an additional sample of blood or urine procured and the resulting test performed by any medical laboratory of that person's own choosing and at that person's own expense; provided, that the medical laboratory is licensed pursuant to title 68, chapter 29.

55-10-409. Restricted driver license — Ignition interlock device — Geographic restrictions.

(a) Notwithstanding any of this part to the contrary, a person whose license has been suspended by the court pursuant to § 55-10-404 is not eligible for, and the court shall not have the authority to grant or order, the issuance of a restricted driver license if, based on the record of the department, the person:

(1) Has 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 in this state or a similar offense in another state; or

(2) Seriously injured or killed another person in the course of the conduct that resulted in the driver's conviction under § 55-10-401 or a similar offense in another state. A driver who has committed such an offense shall not be eligible for and the court shall not have the authority to grant the issuance of a restricted motor vehicle operator's license until such time as the period of suspension mandated by § 55-10-404 has expired, notwithstanding the fact that it may be the driver's first conviction.

(b)(1)(A)(i) Except as provided in subsection (a), if a person's motor vehicle operator's license has been revoked pursuant to § 55-10-404 or § 55-10-406, the person may apply to the trial judge or a judge of any court in the person's county of residence having jurisdiction to try charges for driving under the influence for a restricted driver license.

(ii) If the person's present conviction for driving under the influence of an intoxicant is an offense for which subdivision (b)(2)(B) requires the court to order the person to operate only a motor vehicle that is equipped with a functioning ignition interlock device, the court may order the issuance of a restricted motor vehicle operator's license subject to such limitations. The court shall have discretion to order additional limitations, including but not limited to geographic restrictions as provided in subsection (c), on the restricted motor vehicle license.

(iii) If the person's violation of § 55-10-406 or present conviction for driving under the influence of an intoxicant is not an offense for which subdivision (b)(2)(B) requires the court to order the person to operate only a motor vehicle that is equipped with a functioning ignition interlock device, the court may order the issuance of a restricted motor vehicle operator's license. The court shall have discretion to order the

person to operate only a motor vehicle that is equipped with a functioning ignition interlock device or place additional limitations on the person's restricted license; provided, however, that a restricted license issued pursuant to this subdivision (b)(1)(A)(ii) without an ignition interlock requirement shall be subject to geographic restrictions as provided in subsection (c).

(B)(i) A Tennessee resident, whose operator's license has been revoked because of a conviction in another jurisdiction for operating a motor vehicle while under the influence of an intoxicant, may apply for a restricted license to a judge of any court in the person's county of residence having jurisdiction to try charges for driving under the influence. The court may order the issuance of a restricted motor vehicle operator's license. The court shall have discretion to order the person to operate only a motor vehicle that is equipped with a functioning ignition interlock device or place additional limitations on the person's restricted license; provided, however, that a restricted license issued pursuant to this subdivision (b)(1)(B)(i) without an ignition interlock requirement shall be subject to geographic restrictions as provided in subsection (c). If the person has a prior conviction within the past ten (10) years for a violation of § 55-10-401 or § 55-10-421, in this state or a similar offense in any other jurisdiction, the court shall be required to order the person to operate only a motor vehicle that is equipped with a functioning ignition interlock device.

(ii) If a copy of the judgment of conviction certified by the court that tried the case in the other jurisdiction accompanies the restricted license application, the court may issue such order allowing the person so convicted to operate a motor vehicle including such restrictions ordered by the court that tried the case in the other jurisdiction provided such restrictions do not conflict with Tennessee statutes or regulations.

(C) A person ordered to operate only a motor vehicle that is equipped with a functioning ignition interlock device pursuant to this subsection (b) may apply for assistance to meet the requirement pursuant to § 55-10-419, except as provided in subdivision (b)(2)(C).

(2)(A) Upon application by a person who is not prohibited from having a restricted license under subsection (a), the judge of the court may order the issuance of a restricted license in accordance with § 55-50-502(c) allowing the person to operate a motor vehicle for the limited purposes set forth in subdivision (c)(1).

(B) If the judge approves the restricted license application of a person who is not prohibited from having a restricted license under subsection (a), the judge shall also order the person to install and keep a functioning ignition interlock device as a condition of probation if, at the time of the offense:

(i) The person was convicted of a violation of § 55-10-401 and had a blood or breath alcohol concentration of eight hundredths of one percent (0.08%) or higher or a combination of alcohol in any amount and marijuana, a controlled substance, controlled substance analogue, drug, or any substance affecting the central nervous system;

(ii) The person was convicted of § 55-10-401 and was accompanied by a person under eighteen (18) years of age;

(iii) The person was involved in a traffic accident for which notice to a law enforcement officer is required under § 55-10-107, and the

accident is the proximate result of the person's intoxication; or

(iv) The person violated the implied consent law under § 55-10-406, and has a conviction or juvenile delinquency adjudication for a violation that occurred within five (5) years of the instant implied consent violation, 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.

(C) A person convicted of § 55-10-401, who is eligible for a restricted license under subsection (a) and who is not required to have an interlock device pursuant to subdivision (b)(2) or other section, may request the court order the installation and use of an ignition interlock in lieu of geographic restrictions or additional limitations on the restricted license. The person shall pay all costs associated with the device and is not eligible for electronic monitoring indigency fund assistance under § 55-10-419.

(D) A court may also order a person whose license has been suspended pursuant to § 55-10-407 to operate only a motor vehicle that is equipped with a functioning ignition interlock with or without geographic restrictions which shall remain on the vehicle during the entire period of the restricted license. A person ordered to operate only a motor vehicle that is equipped with a functioning ignition interlock device pursuant to this subdivision (b)(2)(D) may apply for assistance to meet the requirement pursuant to § 55-10-419.

(c)(1) If a court issues an order allowing a person to operate a motor vehicle with geographic restrictions, the court shall specify the necessary time and places of permissible operation of a motor vehicle, for the limited purposes of going to and from:

(A) And working at the person's regular place of employment;

(B) The office of the person's probation officer or other similar location for the sole purpose of attending a regularly scheduled meeting or other function with the probation officer by a route to be designated by the probation officer;

(C) A court-ordered alcohol safety program;

(D) A college or university in the case of a student enrolled full time in the college or university;

(E) A scheduled interlock monitoring appointment;

(F) A court ordered outpatient alcohol and drug treatment program; and

(G) The person's regular place of worship for regularly scheduled religious services conducted by a bona fide religious institution as defined in § 48-101-502(c).

(2) A court order issued under subsection (b) may be presented within ten (10) days after the date of issuance to the department, accompanied by a fee of sixty-five dollars ($65.00) and proof to the satisfaction of the department that a functioning ignition interlock device has been installed and will be maintained on one (1) or more vehicles to be operated by the person for the duration of the restricted license, if such installation and maintenance is required by subdivision (b)(2)(B) or the court's order. If the person has first successfully completed a driver license examination, the department shall

forthwith issue a restricted license specifying that such restricted license authorizes the person to operate only noncommercial vehicles equipped with a functioning ignition interlock device, if required, and embodying additional limitations imposed by the court upon the person.

(3) If the violation resulting in the person's conviction for driving under the influence or the person's violation of § 55-10-406 occurred prior to July 1, 2013, the law in effect when the violation occurred shall govern the person's eligibility for a restricted motor vehicle operator license unless the person petitions the court to consider the person's eligibility under the law in effect when the petition is filed.

(d)(1) Unless otherwise prohibited by subsection (a), the trial judge or a judge of any court in the person's county of residence having jurisdiction to try charges for driving under the influence may order the issuance of a restricted motor vehicle operator's license in accordance with § 55-50-502 to any person whose motor vehicle operator's license has been revoked pursuant to § 55-10-404 and who has a prior conviction within the past ten (10) years for a violation of § 55-10-401 or § 55-10-421, in this state or a similar offense in any other jurisdiction.

(2)(A) If the court orders the issuance of a restricted motor vehicle operator's license pursuant to this subsection (d), the court shall also order the person to operate only a motor vehicle that is equipped with a functioning ignition interlock device. The restriction shall be for the entire period of the restricted license and for a period of six (6) months after the license revocation period has expired if required by § 55-10-417(k).

(B) Sections 55-10-417, 55-10-418 and 55-10-419 shall apply when a person is ordered to operate only a motor vehicle that is equipped with a functioning ignition interlock device pursuant to this subsection (d).

(e) If a person is required by court order issued pursuant to this section, whether issued due to 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, the compliance-based provisions of § 55-10-425 shall govern the required periods of continuous operation, default interlock orders, authorized removal of the device, and other enforcement aspects of the court's order set out in § 55-10-425.

55-10-413. Additional fees — Ignition interlock fee — Alcohol and drug addiction treatment fee — Blood alcohol concentration test (BAT) fee — Blood alcohol or drug concentration test (BADT) fee — TBI toxicology unit intoxicant testing fund.

(a) In addition to all other fines, fees, costs and punishments now prescribed by law, an ignition interlock fee of forty dollars ($40.00) shall be assessed for each violation of § 55-10-401, which occurred on or after July 1, 2010, and resulted in a conviction for such offense.

(b) In addition to all other criminal penalties, costs, taxes and fees now prescribed by law, any person convicted of violating § 55-10-401 will be assessed a fee of five dollars ($5.00), to be paid into the state treasury and deposited to the credit of the fund established pursuant to § 9-4-206.

(c)(1) In addition to all other fines, fees, costs and punishments now prescribed by law, an alcohol and drug addiction treatment fee of one hundred dollars ($100) shall be assessed for each conviction for a violation of

(2) All proceeds collected pursuant to subdivision (c)(1), shall be transmitted to the commissioner of mental health and substance abuse services for deposit in the special "alcohol and drug addiction treatment fund" administered by the department.

(d)(1) In addition to all other fines, fees, costs and punishments now prescribed by law, in counties having a population of not less than three hundred thirty-five thousand (335,000) nor more than three hundred thirty-six thousand (336,000), or in counties having a population of more than seven hundred thousand (700,000), according to the 1990 federal census or any subsequent federal census, a blood alcohol concentration test (BAT) fee in the amount of seventeen dollars and fifty cents ($17.50) will be assessed upon conviction of an offense of driving while intoxicated for each offender who has taken a breath-alcohol test on an evidential breath testing unit provided, maintained and administered by a law enforcement agency in the counties or where breath, blood or urine has been analyzed by a publicly funded forensic laboratory.

(2) In addition to all other fines, fees, costs and punishments now prescribed by law, in counties having a metropolitan form of government with a population greater than one hundred thousand (100,000), according to the 1990 federal census or any subsequent federal census, a BAT fee in an amount to be established by resolution of the legislative body of any county to which this subdivision (d)(2) applies, not to exceed fifty dollars ($50.00), will be assessed upon conviction of an offense of driving while intoxicated for each offender who has taken a breath-alcohol test on an evidential breath testing unit provided, maintained and administered by a law enforcement agency in the counties or where breath, blood or urine has been analyzed by a publicly funded forensic laboratory.

(3) This fee shall be collected by the clerks of various courts of the counties and forwarded to the county trustee on a monthly basis and designated for exclusive use by the law enforcement testing unit of the counties if the BAT was conducted on an evidential breath testing unit. If the blood alcohol test was conducted by a publicly funded forensic laboratory, the fee shall be collected by the clerks of the various courts of the counties and forwarded to the county trustee on a monthly basis and designated for exclusive use by the publicly funded forensic laboratory.

(4) In counties having a metropolitan form of government with a population greater than one hundred thousand (100,000), according to the 1990 federal census or any subsequent federal census, this fee shall be collected by the clerks of the various courts of the counties and forwarded to the county trustee on a monthly basis. If the BAT was conducted on an evidential breath testing unit, seventeen dollars and fifty cents ($17.50) of the fee shall be designated for exclusive use by the law enforcement testing unit of the county. The county trustee shall deposit the remainder of the fee in the general fund of the county. If the blood alcohol test was conducted by a publicly funded forensic laboratory, seventeen dollars and fifty cents ($17.50) of the fee collected by the clerks of the various courts of the counties and forwarded to the county trustee on a monthly basis shall be designated for exclusive use by the publicly funded forensic laboratory. The county trustee shall deposit the remainder of the fee in the general fund of the county.

(e) Notwithstanding any other law to the contrary, in any county having a

population of not less than three hundred seven thousand eight hundred (307,800) nor more than three hundred seven thousand nine hundred (307,900), according to the 2000 federal census or any subsequent federal census, upon conviction for a violation of § 55-10-401, § 55-10-415, § 55-10-421 or § 55-50-408, the court shall assess against the defendant a blood alcohol concentration test (BAT) fee to be established by the county legislative body of any county to which this subsection (e) applies in an amount not to exceed fifty dollars ($50.00) for obtaining a blood sample for the purpose of performing a test to determine the alcoholic or drug content of the defendant's blood pursuant to § 55-10-406 that is incurred by the governmental entity served by the law enforcement agency arresting the defendant. The fee authorized by this subsection (e) shall only be assessed if a blood sample is actually taken from a defendant convicted of any of these offenses and the test is actually performed on the sample.

(f)(1) In addition to all other fines, fees, costs, and punishments now prescribed by law, including the fee imposed pursuant to subsection (d), a blood alcohol or drug concentration test (BADT) fee in the amount of two hundred fifty dollars ($250) shall be assessed upon a conviction for driving under the influence of an intoxicant under § 55-10-401, vehicular assault under § 39-13-106, aggravated vehicular assault under § 39-13-115, vehicular homicide under § 39-13-213(a)(2), simple possession or casual exchange of a controlled substance under § 39-17-418, reckless driving under § 55-10-205, or aggravated vehicular homicide under § 39-13-218, for each offender who has taken a breath alcohol test on an evidential breath testing unit provided, maintained, and administered by a law enforcement agency for the purpose of determining the breath alcohol content or has submitted to a chemical test to determine the alcohol or drug content of the blood or urine.

(2) The fee authorized in subdivision (f)(1) shall be collected by the clerks of the various courts of the counties and forwarded to the state treasurer on a monthly basis for deposit in the state general fund, to be used only as appropriated by the general assembly.

(3) Any moneys in the TBI toxicology unit intoxicant testing fund as of June 30, 2018, shall revert to the general fund on such date, to be used only as appropriated by the general assembly.

(g)(1) In addition to all other fines, fees, costs and punishments now prescribed by law, including the fee imposed pursuant to subsection (d), a blood alcohol or drug concentration test (BADT) fee in the amount of one hundred dollars ($100) shall be assessed upon conviction for a violation of § 39-13-106, § 39-13-213(a)(2), § 39-13-218 or § 55-10-401, if the blood or urine of the convicted person was analyzed by a publicly funded forensic laboratory or other forensic laboratory operated by and located in counties having a population of not less than eighty-seven thousand nine hundred (87,900) nor more than eighty-eight thousand (88,000), according to the 2000 federal census or any subsequent federal census, for the purpose of determining the alcohol or drug content of the blood.

(2) The fee authorized in subdivision (g)(1) shall be collected by the clerks of the various courts of the counties and shall be forwarded to the county trustees of those counties on a monthly basis and designated for the exclusive use of the publicly funded forensic laboratory in those counties.

55-10-417. Ignition interlock devices.

(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), subdivision (a)(2), or subsection (k) due to a violation of either § 55-10-401 or § 55-10-406, the restriction shall 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), subdivision (a)(2) or subsection (k) the court shall 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), subdivision (a)(2), or subsection (k) the court shall:

(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, subdivision (a)(1) or subsection (k), 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 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) Except as provided in subdivision (j)(4), a person who violates subsections (f), (g), (h) or (i) commits a Class A misdemeanor:

(1) If the violation is the person's first violation, such person shall be

sentenced to a minimum of forty-eight (48) hours of incarceration;

(2) If the violation is the person's second violation, such person shall be sentenced to a minimum of seventy-two (72) hours of incarceration;

(3) If the violation is the person's third or subsequent violation, such person shall be sentenced to a minimum of seven (7) consecutive days of incarceration;

(4) 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.

(k) If a person convicted of a violation of § 55-10-401 has a prior conviction as defined in § 55-10-405 within the past five (5) years, the court shall order the person, or the department of safety shall require the person prior to issuing a motor vehicle operator's license of any kind, to operate only a motor vehicle, after the license revocation period, which is equipped with a functioning interlock device for a period of six (6) months.

(*l*) If a person is required by the department of safety pursuant to subsection (k) or by court order issued pursuant to this section, whether issued due to 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, the compliance-based provisions of § 55-10-425 shall govern the required periods of continuous operation, default interlock orders, authorized removal of the device, and other enforcement aspects of the court's order 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), subdivision (a)(2), or subsection (k), 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.

55-10-418. Maximum allowable fee — Reports.

(a) From January 1, 2011, until June 30, 2012:

(1) An ignition interlock provider shall not charge more than seventy dollars ($70.00) for installing one (1) ignition interlock device; and

(2) An ignition interlock provider shall not charge more than a total of one hundred dollars ($100) per month for leasing, purchasing, monitoring, removing and maintaining an ignition interlock device.

(b) By July 1, 2012, the department of safety shall establish, through rules and regulations promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5:

(1) The maximum fees that may be charged for installing, leasing, purchasing, monitoring, removing and maintaining an ignition interlock device; and

(2) Requirements that ensure that certified ignition interlock providers have the ability to provide devices to any resident in the state.

(c)(1) From January 1, 2011, until January 1, 2012, the department of safety in consultation with the treasurer shall conduct a study to determine:

(A) The amount of fee that should be established pursuant to § 55-10-413(a) in order to keep the electronic monitoring indigency fund solvent;

(B) The maximum fees to be charged pursuant to subsection (b), taking into consideration the goal of making the interlock device affordable to all offenders in this state; and

(C) The necessary requirements that should be established in order to ensure that providers have the ability to provide devices to any resident in the state.

(2) The department of safety shall report the findings of its study conducted pursuant to subdivision (c)(1) to the judiciary committees of the senate and the house of representatives on or before January 1, 2012.

(d) Any licensed ignition interlock provider providing a functioning ignition interlock device to a person pursuant to this part shall report to the department of correction, or any other agency, department, program, group, private entity or association that is responsible for the supervision of a person who is ordered to drive only a motor vehicle with a functioning ignition interlock device installed on such vehicle as a condition of such person's probation, any evidence of such person's:

(1) Altering, tampering with, bypassing, or removing a functioning ignition interlock device;

(2) Failing to abide by the terms or conditions ordered by the court, including, but not limited to, failing to appear for scheduled monitoring visits; and

(3) Attempting to start the motor vehicle while under the influence of alcohol.

(e) The department of safety, beginning February 1, 2012, and thereafter annually, on or before February 1, shall report in writing to the judiciary committee of the senate and the criminal justice committee of the house of representatives the number of offenders who have, in the previous year, had installed on their motor vehicles functioning ignition interlock devices and whether the installation of each device was pursuant to the requirement set out in:

(1) § 55-10-409(b)(2)(B);

(2) § 55-10-409(b)(2)(D);

(3) § 55-10-409(d)(2);

(4) § 55-10-417(a)(1); or

(5) § 55-10-417(k).

(f) For purposes of this section, "previous year" means from January 1 to December 31 of the year immediately preceding the February 1 reporting date.

(g) An ignition interlock provider shall charge an annual administrative fee of twelve dollars and fifty cents ($12.50) from each ignition interlock user. The proceeds of the fee shall be transmitted to the department of safety and shall be used to fund the administrative costs of implementing compliance-based ignition interlock use, pursuant to § 55-10-425.

55-10-419. Electronic monitoring indigency fund — Responsibility for costs to comply with ignition interlock requirements — Indigency.

(a)(1)(A) There is created in the state treasury a fund to be known as the electronic monitoring indigency fund. Except as provided in subsection (f), all money in such fund shall be used to pay for the following for persons deemed by the court to be indigent:

(i) The costs associated with the lease, purchase, installation, removal, and maintenance of ignition interlock devices or with any other cost or fee associated with a functioning ignition interlock device required by this part; and

(ii) The costs associated with the use of a transdermal monitoring device or other alternative alcohol or drug monitoring device, if required by the court pursuant to § 55-10-402(h)(7).

(B) Notwithstanding subdivisions (a)(1)(A)(i) and (ii), no more than two hundred dollars ($200) per month shall be expended from the fund to pay the costs associated with an indigent person's interlock ignition device pursuant to subdivision (a)(1)(A)(i), or an indigent person's transdermal monitoring device or other alternative alcohol or drug monitoring device, pursuant to subdivision (a)(1)(A)(ii).

(2) Moneys in the fund shall not revert to the general fund of the state, but shall remain available to be used as provided for in subdivision (a)(1).

(3) Interest accruing on investments and deposits of the electronic monitoring indigency fund shall be credited to such account, shall not revert to the general fund, and shall be carried forward into each subsequent fiscal year.

(4) Moneys in the electronic monitoring indigency fund account shall be invested by the state treasurer in accordance with § 9-4-603.

(b) Except as otherwise provided in § 55-10-409(b)(2)(D), the costs incurred in order to comply with the ignition interlock requirements shall be paid by the person ordered to install a functioning ignition interlock device, unless the court finds such person to be indigent. If a court determines that a person is indigent, the court shall order such person to pay any portion of the costs which the person has the ability to pay, as determined by the court. Any portion of the costs the person is unable to pay shall come from the electronic monitoring indigency fund established pursuant to subsection (a).

(c) Whenever a person ordered to install a device pursuant to § 55-10-409(b)(2), § 55-10-409(d)(2), § 55-10-417(a)(1) or § 55-10-417(k) asserts to the court that the person is indigent and financially unable to pay for a functioning ignition interlock device, it shall be the duty of the court to conduct a full and complete hearing as to the financial ability of the person to pay for such device and, thereafter, make a finding as to the indigency of such person.

(d) A person is indigent and financially unable to pay for a functioning ignition interlock device if the person is receiving an annual income, after taxes, of one hundred eighty-five percent (185%) or less of the poverty guidelines updated periodically in the federal register by the United States department of health and human services under the authority of 42 U.S.C. § 9902(2).

(e) Every person who informs the court that the person is financially unable to pay for a functioning ignition interlock device shall be required to complete

an affidavit of indigency that is designed by the administrative office of the courts for purposes of assisting the court in making its determination pursuant to subsection (c). If the person intentionally misrepresents, falsifies or withholds any information required by the affidavit of indigency, such person commits perjury as set out in § 39-16-702.

(f)(1) If at any time after January 1, 2011, there are no funds in the electronic monitoring indigency fund or the fund is depleted, any indigent person required to have a functioning ignition interlock device who is ordered to have such pursuant to:

(A) Section 55-10-409(b)(2) or (d)(2) shall be ineligible for a restricted license; or

(B) Section 55-10-417(a)(1) or (k) shall be ineligible to have such person's license reinstated.

(2) If at any time during the period in which an indigent person is not eligible for a restricted license or reinstatement of the person's motor vehicle operator's license due to subdivision (f)(1), such person may petition the court to have a portion or all of the costs of the ignition interlock device paid by funds from the electronic monitoring indigency fund if at any time funds become available.

(g)(1) All proceeds collected pursuant to §§ 55-10-413(a) and 69-9-219(c)(9) shall be transmitted to the treasurer for deposit in the electronic monitoring indigency fund.

(2) The fees assessed pursuant to §§ 55-10-413(a) and 69-9-219(c)(9) shall be allocated as follows:

(A) Thirty dollars and fifty cents ($30.50) to the electronic monitoring indigency fund for the purpose of paying for the following for persons found to be indigent by the court:

(i) All the costs associated with the lease, purchase, installation, removal, and maintenance of a functioning ignition interlock device or with any other cost or fee associated with a functioning ignition interlock device required by this part;

(ii) All the costs associated with the use of a transdermal monitoring device or other alternative alcohol or drug monitoring devices, if required by the court pursuant to § 55-10-402(h)(7); and

(iii) All the administrative costs incurred by the department of treasury in administering the electronic monitoring indigency fund;

(B) Four dollars fifty cents ($4.50) to the Tennessee Hospital Association for the sole purposes of making grants to hospitals that have been designated as critical access hospitals under the Medicare rural flexibility program for the purposes of purchasing medical equipment, enhancing high technology efforts and expanding healthcare services in underserved areas;

(C) One dollar twenty-five cents ($1.25) to the department of mental health and substance abuse services to be placed in the alcohol and drug addiction treatment fund;

(D) One dollar twenty-five cents ($1.25) to the department of safety, Tennessee highway safety office, for the sole purpose of funding grant awards to local law enforcement agencies for purposes of obtaining and maintaining equipment and personnel needed in the enforcement of alcohol related traffic offenses;

(E) One dollar twenty-five cents ($1.25) to the department of safety to

be used to defray the expenses of administering this part; and

(F) One dollar twenty-five cents ($1.25) to the department of finance and administration, office of criminal justice programs, for the sole purpose of funding grant awards to halfway houses whose primary focus is to assist drug and alcohol offenders. In order for a halfway house to qualify for such grant awards it shall provide:

(i) No less than sixty (60) residential beds monthly with occupancy at no less than ninety-seven percent (97%) per month, or if a halfway house with nonresidential day reporting services, it shall serve no less than two hundred (200) adults monthly;

(ii) Safe and secure treatment facilities, and treatment to include moral recognition therapy, GED course work, anger management therapy, and domestic and family counseling; and

(iii) Transportation to and from work, mental health or medical appointments for each of its residents.

(3)(A) Beginning in fiscal year 2013-2014, any surplus in the electronic monitoring indigency fund shall be allocated as follows:

(i) Sixty percent (60%) of such surplus shall be used by the Tennessee Hospital Association for the sole purposes of making grants to hospitals that have been designated as critical access hospitals under the Medicare rural flexibility program for the purposes of purchasing medical equipment, enhancing high technology efforts and expanding healthcare services in underserved areas;

(ii) Twenty percent (20%) of such surplus shall be transmitted to the department of mental health and substance abuse services and placed in the alcohol and drug addiction treatment fund; and

(iii) Twenty percent (20%) of such surplus shall be used by the department of safety, Tennessee highway safety office, to provide grants to local law enforcement agencies for purposes of obtaining and maintaining equipment or personnel needed in the enforcement of alcohol related traffic offenses.

(B) Beginning on July 1, 2013, and annually thereafter, the treasurer shall conduct an analysis to determine the solvency of the electronic monitoring indigency fund. The treasurer may declare a surplus if the analysis determines that there is a balance in excess of the amount necessary to maintain the solvency of the fund, and shall report the amount of any surplus to the commissioner of finance and administration for inclusion in the annual budget document prepared pursuant to title 9, chapter 4, part 51.

(h) For purposes of this section, "previous year" means from January 1 to December 31 of the year immediately preceding the February 1 reporting date.

55-10-425. Compliance-based removal of ignition interlock device.

(a) Effective July 1, 2016, the authorized removal of any functioning ignition interlock device that is required by the department of safety pursuant to § 55-10-417(k) or by court order, whether issued due to statutory requirement, in the court's discretion, or at the defendant's request, shall be compliance-based in accordance with this section.

(b)(1) Except as provided in subdivision (b)(2), upon application by a person who is not otherwise prohibited from having a restricted license, the court

shall order the installation and use of a functioning ignition interlock device for a three-hundred-sixty-five-consecutive-day period or for the entire period of the person's driver license revocation, whichever is longer. The consecutive day requirement shall commence on the date of the ignition interlock installation. For persons who are required to use ignition interlock upon reinstatement pursuant to § 55-10-417(k), the six-month period shall commence on the date of license reinstatement, and shall, for the purposes of authorizing removal of the interlock device, be considered the same as the three hundred sixty-five consecutive day requirement.

(2) If a functioning ignition interlock device is required, ordered, or requested to be installed and used pursuant to subsection (a), the minimum three-hundred-sixty-five-consecutive-day period required by subdivision (b)(1) and the final one-hundred-twenty-day period of violation-free use required by subdivision (c)(2) are applicable regardless of whether the person applies for a restricted license. If the person elects not to operate a motor vehicle during the period of license revocation and applies for reinstatement of the license at the end of the revocation period, the department shall not reinstate the license until the person shows the department proof of ignition interlock installation. Upon proof being shown and the driver license reinstated, the three hundred sixty-five (365) consecutive days of usage period shall commence on the date the license is reinstated.

(3) If the court determines that installation and use of a functioning ignition interlock device is not required by § 55-10-409(b)(2)(B), the court shall make specific findings of fact on a form provided by the department that the factors listed in § 55-10-409(b)(2)(B) do not exist in the instant case. The findings of fact shall include the following:

(A) The person's actual blood or breath alcohol concentration (BAC) demonstrating that the person did not have a blood or breath alcohol concentration of eight-hundredths of one percent (0.08%) or higher, or a combination of alcohol in any amount and marijuana, a controlled substance, controlled substance analogue, drug, or any substance affecting the central nervous system;

(B) There was no person in the vehicle with the person who was under eighteen (18) years of age;

(C) The person was not involved in an accident, or the accident did not require a report under § 55-10-107, or the accident was not the proximate result of the person's intoxication; and

(D) The person is not charged with violating the implied consent law or, if the person is so charged, the person did not have a conviction or juvenile delinquency adjudication for a violation that occurred within five (5) years of the instant implied consent violation, for any of the offenses set out in § 55-10-409(b)(2)(B)(iv).

(4)(A) If the court fails to make a specific finding that § 55-10-409(b)(2)(B) is not applicable in the instant case, if the finding made by the court is incomplete, or if the finding does not contain adequate information for the department to determine the applicability of § 55-10-409(b)(2)(B), the person shall be required by default to install and use a functioning ignition interlock device for a three hundred sixty-five consecutive day period or for the entire period of the driver license revocation period, whichever is longer.

(B) If the court orders that a restricted license be issued without an ignition interlock device required, and the court's findings of fact demonstrate that installation and use of a functioning ignition interlock device is not required by § 55-10-409(b)(2)(B), the restricted driver license shall be subject to the geographic restrictions of § 55-10-409(c).

(c)(1) A person required to install and use only a functioning ignition interlock device pursuant to this section is prohibited from removing or causing to be removed the ignition interlock device from the vehicle for which it was ordered and the person shall be required to maintain the device in working order for a three-hundred-sixty-five-consecutive-day period or for the entire period of the driver license revocation period, whichever is longer.

(2) In addition to the minimum three-hundred-sixty-five-consecutive-day period during which the ignition interlock device shall be attached, functioning, and maintained on the motor vehicle for which it is ordered, the ignition interlock device cannot be lawfully removed from the vehicle, except for necessary maintenance, replacement, or repair as determined by the department, unless the person has operated the ignition interlock equipped vehicle without violation, as described in subsection (d), for the last one hundred twenty (120) days of the period for which it is required.

(d)(1) During the final one-hundred-twenty-day period for which the ignition interlock device is required, the person shall not violate any of the following conditions:

(A) Tampering with, circumventing, or attempting to start the vehicle with a breath alcohol concentration in excess of the two-hundredths of one percent (0.02%) blood alcohol concentration calibration setting required by § 55-10-417(b); provided, however, that a person shall not be in violation of this subdivision (d)(1)(A) for attempting to start the vehicle, if a subsequent retest within ten (10) minutes shows a breath alcohol concentration of two-hundredths of one percent (0.02%) or less and review of the digital images associated with each test confirms that the same person performed both tests;

(B) Failing to take or skipping a rolling retest when required by the ignition interlock device; provided, however, that a person shall not be in violation of this subdivision (d)(1)(B) for failing to take or skipping a rolling retest if a review of the digital images associated with the test confirms that the vehicle was not occupied by the driver at the time of the retest;

(C) Failing a rolling test required by the ignition interlock device with a breath alcohol concentration in excess of two-hundredths of one percent (0.02%); provided, however, that a person shall not be in violation of this subdivision (d)(1)(C) for failing a rolling test, if a subsequent retest within ten (10) minutes shows a breath alcohol concentration of two-hundredths of one percent (0.02%) or less and review of the digital images associated with each test confirms that the same person performed both tests;

(D) Removing or causing to be removed the ignition interlock device at any time during the three hundred sixty-five consecutive day period; and

(E) Failing to appear at the ignition interlock device provider when required for calibration, monitoring, or inspection of the device.

(2)(A) Upon completion of the period for which the person is required to use an ignition interlock device, the person shall request that the ignition interlock provider certify that the person has complied with the conditions

in subdivision (d)(1) for the required periods. The provider shall determine whether the person has been compliant with the conditions for the required periods and either issue a certificate of compliance to the person or notify the person of noncompliance and the resulting extension of the ignition interlock requirement.

(B) If the ignition interlock provider issues a certificate of compliance, the person may present the certificate to the department of safety, which shall remove the ignition interlock restrictions from the person's driver license.

(C) If the ignition interlock provider notifies the person that the provider's records indicate the person has not complied with the conditions in subdivision (d)(1) during the required periods, the person may either accept the extension of the ignition interlock requirement or request that the provider reconsider the finding of noncompliance, which may be based on evidence of compliance provided by the person. If the provider confirms the finding of noncompliance, the person may either accept the extension of the ignition interlock requirement or request an administrative compliance review by the department, pursuant to subdivision (d)(2)(D).

(D) A person may request, in writing, an administrative compliance review by the department, and the person shall include in the request any evidence of compliance. The department shall review any evidence provided by the person and the records provided by the provider within thirty (30) days of receiving the request and shall notify the person and the provider of the department's determination by mail. If the department determines that the person has been compliant for the required periods, the provider shall issue a certificate of compliance to the person. If the department determines that the person was not in compliance for the required periods, the person may seek judicial review of the department's administrative compliance review determination as provided by § 4-5-322.

(e)(1) If at any time during the three-hundred-sixty-five-consecutive-day period, the department determines that the person removes or causes to be removed the ignition interlock device, the device shall be reinstalled and the three-hundred-sixty-five-consecutive-day period shall start again from the date of the reinstallation.

(2) If at any time during the final one hundred twenty (120) days of the time period the person is required to use a functioning ignition interlock device, the department determines that the person has committed a violation of subsection (d), the one hundred twenty day period shall start again from the date of the violation.

(f)(1) If the person has successfully completed the three-hundred-sixty-five-consecutive-day period the ignition interlock device is required to be installed on the motor vehicle, and the final one hundred twenty day period was completed without violation, the person shall take the vehicle to a certified ignition interlock provider for a final download of the offender's data file and shall send the data file to the department.

(2) If the data file from the final download and other relevant information shows that the person has been ignition interlock compliant for the requisite periods of time, the department shall inform the person on a compliance form developed by the department that the person may apply for driver license reinstatement and that the ignition interlock device may be lawfully removed. The person may take the form to the installing ignition interlock

service provider for removal.

(3) The person may take the compliance form to the department and apply for reinstatement of the person's driver license. If the person meets all requirements for license reinstatement and pays all reinstatement fees, the department shall reinstate the driver license.

(4) When removing an ignition interlock device on or after July 1, 2016, a certified ignition interlock provider may in good faith rely on a person's compliance form that removal of the ignition interlock device is lawful.

(g) This section shall apply to offenses committed on or after July 1, 2016, for which a person is required by the department of safety pursuant to § 55-10-417(k) or by court order, whether issued due to 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. To the extent not inconsistent with this section, the procedural provisions and geographic restrictions of §§ 55-10-409 and 55-10-417, the provider fees in § 55-10-418, and the electronic monitoring indigency fund and indigency provisions of § 55-10-419 shall, if applicable, continue to apply. If any provision of those sections is in conflict with this section, this section shall apply.

(h) **[Subsection (h) effective January 1, 2019.]**

(1) This subsection (h) applies to persons required to have an ignition interlock device installed on their vehicle under subsection (c) when that vehicle is unable to be operated due to:

(A) Damage from an accident or other uncontrollable circumstance where the person's intoxication was not a proximate cause; or

(B) Repairs based on normal wear and tear of a vehicle or due to a recall.

(2) A person whose vehicle is unable to be operated under subdivision (h)(1) may request the department toll the required consecutive three-hundred-sixty-five-day period, beginning on the date of the incident that led to the vehicle being unable to be operated, by submitting proof to the ignition interlock provider that the vehicle was involved in a traffic crash, the vehicle is being repaired, or other uncontrollable circumstance through no fault of the person required to have ignition interlock.

(3)(A) If the vehicle was in an accident and a law enforcement agency issued a crash report, the crash report must be submitted.

(B) Other proof may consist of, but is not limited to:

(i) A written statement from the insurance company regarding repairs;

(ii) A written statement from a repair shop showing the damage being repaired and the estimated time of completion for repairs; or

(iii) Other documentation acceptable to the department.

(4) The ignition interlock provider shall forward the request and documentation to the department within five (5) business days of receipt.

(5) The department shall notify the person and the ignition interlock provider in writing, or by electronic transmission, if the tolling period has been granted or denied, and, if denied, the reason for the denial.

(6) If granted, a toll period shall be for thirty (30) days. At the end of the thirty-day period, if the vehicle is still unable to be operated and the person cannot have an ignition interlock device installed on a different vehicle, the person shall submit additional proof, as specified in subdivision (h)(3), to the

department showing the vehicle is still undergoing repairs or other acceptable reason that the ignition interlock device cannot be installed on a different vehicle. The department shall notify the person and the ignition interlock provider in writing, or by electronic transmission, if any additional toll period has been granted or denied, and, if denied, the reason for the denial.

(7) At the end of any thirty-day period, if no new request has been submitted and granted, then the three-hundred-sixty-five-day period shall resume with the person being required to maintain an ignition interlock device for the period of time that was remaining on the day the tolling period began.

(8) The tolling period in this subsection (h) does not relieve a person from the requirement to only operate a vehicle that is equipped with an ignition interlock device.

(9)(A) A person aggrieved by the denial of their request to have the three-hundred-sixty-five-day period tolled under this subsection (h) may, within ten (10) business days of the date of the denial, request a review by the commissioner or the commissioner's designee. The request for review shall include copies of the proof submitted to the department, the denial letter from the department, and any information showing why the person believes the denial was incorrect.

(B) The commissioner or the commissioner's designee shall, within ten (10) business days of receiving the request for review, make a determination in writing, based on information in the department's records and the information provided by the person requesting the review, whether or not the thirty-day toll period should be granted.

(C) The request for review will stay the continuation of the three-hundred-sixty-five-day period until the commissioner or commissioner's designee's ruling is issued.

(D) A person may appeal the commissioner or commissioner's designee's ruling pursuant to § 4-5-322.

55-12-104. Report of accident required — Suspension of registration or operating privileges for failure to report — Restoration — Access to information. [Effective until January 1, 2019. See the version effective on January 1, 2019.]

(a) The operator of a motor vehicle that is in any manner involved in an accident within this state in which any person is killed or injured, or in which damage to the property of any one (1) person, including the operator, in excess of four hundred dollars ($400) is sustained, shall report the matter in writing to the commissioner within twenty (20) days after the occurrence of the accident. If the operator fails or is physically incapable of making the report, the owner of the motor vehicle involved in the accident shall, upon learning of the accident, report the matter in writing to the commissioner. The operator or the owner shall make other and additional reports relating to the accident as the commissioner shall require.

(b) The form of the accident report required under this section shall contain information sufficient to enable the commissioner to determine whether the requirements for the deposit of security under this part are inapplicable by reason of the existence of insurance or other exceptions specified in this part. The commissioner may rely upon the accuracy of the information, unless and

until there is reason to believe that the information is erroneous.

(c) If a report of the accident is not received by the commissioner of safety within twenty (20) days, as required by subsection (a), the commissioner may issue a notice of suspension of the operator's license and, immediately upon request by the commissioner of safety, the commissioner of revenue shall issue a notice of suspension of the registration of the motor vehicle involved. Notices of the suspension of the operator's license and the motor vehicle's registration shall be sent by United States mail not less than twenty (20) days prior to the effective date of suspension. Each notice shall state that the vehicle's operator or owner, or both, are entitled to an administrative hearing held by the commissioner of safety, or the commissioner's delegate, pursuant to a request under § 55-12-103(a). The commissioner of safety shall suspend the license or nonresident operating privileges, and shall request that the commissioner of revenue suspend the motor vehicle registration of any person involved in an accident as a motor vehicle operator or owner in this state who willfully fails, refuses or neglects to make or have filed an accident report on that person's behalf. A person whose motor vehicle operating privileges have been so suspended may obtain restoration of driving privileges by filing a report of the accident and paying a restoration fee of twenty-five dollars ($25.00) to the commissioner of safety. If the registration of the motor vehicle involved in the accident has been suspended, upon receipt of that payment, 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.

(d) The requirements of this section in regard to the filing of the accident report shall not apply to:

(1) Vehicles owned by the United States, this state, or any political subdivision of this state or any municipality therein; or the operator of any vehicle so owned, when the vehicle is involved in an accident;

(2) The owner or operator of any vehicle where there is no physical contact with another vehicle or object or person; or

(3) The owner of a vehicle that at the time of the accident was parked, unless the vehicle was parked at a place where parking at the time of the accident was prohibited under any applicable law or ordinance.

(e) At any time after five (5) years from the date of suspension, the department of safety may, in its own discretion, or upon request of the person required to file an accident report, withdraw the suspension of the driver's operating privileges and the commissioner of revenue, upon request by the commissioner of safety 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, shall immediately reinstate the motor vehicle owner's registration; provided, that the records of the department of safety establish that the person, during the preceding five (5) years, has not been convicted of any offense authorizing or requiring suspension, revocation, prohibition, or cancellation of a license or registration upon order of the department or a court arising from a conviction for a violation of the law.

(f)(1) Parties involved in an accident that is reported to the department as required in subsection (a) shall be permitted to obtain a copy of any document on file with the department that contains proof of financial responsibility that has been filed by other involved parties in the same

accident.

(2) Requests for these documents shall be made in writing by the individual seeking the information on a form supplied by the department. Only one (1) document may be received for each form received, and each request shall be accompanied by a fee of five dollars ($5.00), payable to the department.

(3) In no event shall the information supplied by the department include policy limits.

(g) The owner of an ADS-operated vehicle, as defined by § 55-30-102, is solely responsible for compliance with the requirements for filing the accident report under subsection (a).

55-12-104. Report of accident required — Suspension of registration or operating privileges for failure to report — Restoration — Access to information. [Effective on January 1, 2019. See the version effective until January 1, 2019.]

(a)(1) The operator of a motor vehicle that is in any manner involved in an accident within this state in which any person is killed or injured, or in which damage to the property of any one (1) person, including the operator, in excess of one thousand five hundred dollars ($1,500) is sustained, shall report the matter in writing to the commissioner within twenty (20) days after the occurrence of the accident. If the operator fails or is physically incapable of making the report, the owner of the motor vehicle involved in the accident shall, upon learning of the accident, report the matter in writing to the commissioner. The operator or the owner shall make other and additional reports relating to the accident as the commissioner shall require.

(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 form of the accident report required under this section shall contain information sufficient to enable the commissioner to determine whether the requirements for the deposit of security under this part are inapplicable by reason of the existence of insurance or other exceptions specified in this part. The commissioner may rely upon the accuracy of the information, unless and until there is reason to believe that the information is erroneous.

(c) If a report of the accident is not received by the commissioner of safety within twenty (20) days, as required by subsection (a), the commissioner may issue a notice of suspension of the operator's license and, immediately upon request by the commissioner of safety, the commissioner of revenue shall issue a notice of suspension of the registration of the motor vehicle involved. Notices of the suspension of the operator's license and the motor vehicle's registration shall be sent by United States mail not less than twenty (20) days prior to the effective date of suspension. Each notice shall state that the vehicle's operator or owner, or both, are entitled to an administrative hearing held by the commissioner of safety, or the commissioner's delegate, pursuant to a request under § 55-12-103(a). The commissioner of safety shall suspend the license or nonresident operating privileges, and shall request that the commissioner of revenue suspend the motor vehicle registration of any person involved in an accident as a motor vehicle operator or owner in this state who willfully fails,

refuses or neglects to make or have filed an accident report on that person's behalf. A person whose motor vehicle operating privileges have been so suspended may obtain restoration of driving privileges by filing a report of the accident and paying a restoration fee of twenty-five dollars ($25.00) to the commissioner of safety. If the registration of the motor vehicle involved in the accident has been suspended, upon receipt of that payment, 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.

(d) The requirements of this section in regard to the filing of the accident report shall not apply to:

(1) Vehicles owned by the United States, this state, or any political subdivision of this state or any municipality therein; or the operator of any vehicle so owned, when the vehicle is involved in an accident;

(2) The owner or operator of any vehicle where there is no physical contact with another vehicle or object or person; or

(3) The owner of a vehicle that at the time of the accident was parked, unless the vehicle was parked at a place where parking at the time of the accident was prohibited under any applicable law or ordinance.

(e) At any time after five (5) years from the date of suspension, the department of safety may, in its own discretion, or upon request of the person required to file an accident report, withdraw the suspension of the driver's operating privileges and the commissioner of revenue, upon request by the commissioner of safety 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, shall immediately reinstate the motor vehicle owner's registration; provided, that the records of the department of safety establish that the person, during the preceding five (5) years, has not been convicted of any offense authorizing or requiring suspension, revocation, prohibition, or cancellation of a license or registration upon order of the department or a court arising from a conviction for a violation of the law.

(f)(1) Parties involved in an accident that is reported to the department as required in subsection (a) shall be permitted to obtain a copy of any document on file with the department that contains proof of financial responsibility that has been filed by other involved parties in the same accident.

(2) Requests for these documents shall be made in writing by the individual seeking the information on a form supplied by the department. Only one (1) document may be received for each form received, and each request shall be accompanied by a fee of five dollars ($5.00), payable to the department.

(3) In no event shall the information supplied by the department include policy limits.

(g) The owner of an ADS-operated vehicle, as defined by § 55-30-102, is solely responsible for compliance with the requirements for filing the accident report under subsection (a).

55-12-105. Security deposit following accident — Acceptable proof of financial security — Revocation of registration or operating privileges for failure to deposit security — Notice — Appeal. [Effective until January 1, 2019. See the version effective on January 1, 2019.]

(a) The commissioner shall, upon receiving an accident report of an accident occurring in this state that has resulted in bodily injury, or death, or damage to the property of any one (1) person in excess of four hundred dollars ($400), and upon determining that there is a reasonable possibility of a judgment against the owner, operator, or both, and upon receiving notice of a claim filed against the owner, operator, or both, revoke the license and shall request the commissioner of revenue to immediately revoke all registrations of the owner, operator, or both, of a motor vehicle involved in the accident, and in case of a nonresident, the privilege of operating a motor vehicle within this state and of the use within this state of any motor vehicle owned by the nonresident, unless the operator, owner, or both, deposits security in a sum that shall be sufficient in the judgment of the commissioner, and in no event less than five hundred dollars ($500), to satisfy any judgment or judgments resulting from the accident that may be recovered against the operator, owner, or both.

(b) The following, and only the following, shall be acceptable proof of financial security:

(1) Filing of written proof of insurance coverage with the commissioner on forms approved by the commissioner;

(2) The deposit of cash with the commissioner of no less than the amount specified in § 55-12-102, or in the total amount of all damages suffered, whichever is less, subject to a minimum deposit of five hundred dollars ($500);

(3) The execution and filing of a bond with the commissioner of no less than the amount specified in § 55-12-102, or in the total amount of all damages suffered, whichever is less, subject to a minimum bond of five hundred dollars ($500); or

(4) The submission to the commissioner of notarized releases executed by all parties who had previously filed claims with the department as a result of the accident.

(c) Any notice of revocation issued under this section shall be sent by United States mail to the last known address of the operator and owner not less than twenty (20) days prior to the effective date of revocation, and shall state the amount required as security, and that the operator, owner, or both are entitled to an administrative hearing conducted by the commissioner of safety or the commissioner's delegate pursuant to a request under § 55-12-103(a). Any request for an administrative hearing must be submitted in writing on or before the effective date of the proposed revocation.

55-12-105. Security deposit following accident — Acceptable proof of financial security — Revocation of registration or operating privileges for failure to deposit security — Notice — Appeal. [Effective on January 1, 2019. See the version effective until January 1, 2019.]

(a) The commissioner shall, upon receiving an accident report of an accident occurring in this state that has resulted in bodily injury, or death, or damage to

the property of any one (1) person in excess of one thousand five hundred dollars ($1,500), and upon determining that there is a reasonable possibility of a judgment against the owner, operator, or both, and upon receiving notice of a claim filed against the owner, operator, or both, revoke the license and shall request the commissioner of revenue to immediately revoke all registrations of the owner, operator, or both, of a motor vehicle involved in the accident, and in case of a nonresident, the privilege of operating a motor vehicle within this state and of the use within this state of any motor vehicle owned by the nonresident, unless the operator, owner, or both, deposits security in a sum that shall be sufficient in the judgment of the commissioner, and in no event less than one thousand five hundred dollars ($1,500), to satisfy any judgment or judgments resulting from the accident that may be recovered against the operator, owner, or both.

(b) The following, and only the following, shall be acceptable proof of financial security:

(1) Filing of written proof of insurance coverage with the commissioner on forms approved by the commissioner;

(2) The deposit of cash with the commissioner of no less than the amount specified in § 55-12-102, or in the total amount of all damages suffered, whichever is less, subject to a minimum deposit of one thousand five hundred dollars ($1,500);

(3) The execution and filing of a bond with the commissioner of no less than the amount specified in § 55-12-102, or in the total amount of all damages suffered, whichever is less, subject to a minimum bond of one thousand five hundred dollars ($1,500); or

(4) The submission to the commissioner of notarized releases executed by all parties who had previously filed claims with the department as a result of the accident.

(c) Any notice of revocation issued under this section shall be sent by United States mail to the last known address of the operator and owner not less than twenty (20) days prior to the effective date of revocation, and shall state the amount required as security, and that the operator, owner, or both are entitled to an administrative hearing conducted by the commissioner of safety or the commissioner's delegate pursuant to a request under § 55-12-103(a). Any request for an administrative hearing must be submitted in writing on or before the effective date of the proposed revocation.

(d) Notwithstanding this section to the contrary, if an accident results in damage to state or local government property in excess of four hundred dollars ($400), then this section shall apply, and if a deposit of cash or an execution and filing of a bond is made as proof of financial security, then the minimum security deposit or bond is five hundred dollars ($500).

55-16-105. Notification of owners and lienholders.

(a) A police department that takes into custody an abandoned, immobile, or unattended motor vehicle, shall, within three (3) business days after taking such motor vehicle into custody, verify ownership of such motor vehicle pursuant to subsection (f). The police department shall, within three (3) business days after receiving verification of ownership, notify by registered mail, return receipt requested, the last known registered owner of the motor vehicle and all lien holders of record that the vehicle has been taken into

custody. The notice shall describe the year, make, model and serial number of the abandoned, immobile, or unattended motor vehicle; set forth the location of the facility where the motor vehicle is being held; inform the owner and any lienholders of their right to reclaim the motor vehicle within ten (10) days after the date of the notice, upon payment of all towing, preservation and storage charges resulting from placing the vehicle in custody; and state that the failure of the owner or lienholders to exercise their right to reclaim the vehicle within the time provided shall be deemed a waiver by the owner and all lienholders of all right, title and interest in the vehicle and consent to the sale of the abandoned, immobile, or unattended motor vehicle at a public auction.

(b) A police department is not required to comply with the requirements of subsection (a) if it provides preseizure notice to the owner of the motor vehicle and all lienholders of record that the vehicle has been found to be abandoned, immobile, or unattended. Any preseizure notice shall be sent by registered or certified mail, return receipt requested, to the last known address of the owner of record and to all lienholders of record. The notice shall be written in plain language and shall contain the year, make, model and vehicle identification number of the motor vehicle, if ascertainable, the location of the motor vehicle, and a statement advising the owner that the owner has ten (10) days to appeal the determination by the police department that the vehicle is abandoned, immobile, or unattended or to remove the vehicle from the property, or the police department shall take the abandoned, immobile, or unattended vehicle into custody. The notice shall further inform the owner and any lienholders of their right to reclaim the motor vehicle after it is taken into custody but before it is sold or demolished, upon payment of all towing, preservation, storage or any other charges resulting from placing the vehicle in custody, and state that the failure of the owner or lienholders to exercise their right to reclaim the vehicle shall be deemed a waiver by the owner and all lienholders of all right, title and interest in the vehicle and consent to the demolition of the vehicle or its sale at a public auction. If the owner or lienholder cannot be located through the exercise of due diligence, notice by publication shall be given as set out in subsection (c). If the owner or lienholder of an abandoned, immobile, or unattended motor vehicle fails to appeal the determination that the vehicle is abandoned, immobile, or unattended or fails to remove the motor vehicle within the time allowed for an appeal, the police department may take the vehicle into custody. If an appeal is made, the motor vehicle shall not be taken into custody while the appeal is pending. Failure to appeal within the specific time period shall, without exception, constitute waiver of the right of appeal.

(c) In the event there is no response to the notice by registered mail provided for in subsection (a), then there shall be notice by one (1) publication in one (1) newspaper of general circulation in the area where the motor vehicle was abandoned, immobile, or unattended. The notice shall be in a small display ad format, but one (1) advertisement may contain multiple listings of abandoned, immobile, or unattended vehicles.

(d) The consequences and effect of failure to reclaim an abandoned, immobile, or unattended motor vehicle shall be as set forth in a valid notice given pursuant to this section.

(e) If the owner of the vehicle is not present, then within fifteen (15) minutes of any person, firm, or entity towing any vehicle pursuant to this chapter, such person, firm, or entity shall notify local law enforcement of the vehicle identification number (VIN), registration information, license plate number

and description of the vehicle. A violation of this requirement by any person, firm or entity is a Class A misdemeanor. Local law enforcement shall keep a record of all such information which shall be available for public inspection.

(f) When an employee of a public agency or a towing company contracting with a public agency takes possession of a vehicle found abandoned, immobile, or unattended, an employee of the agency shall verify ownership through the Tennessee Information Enforcement System (TIES) and shall place the ownership information on the towing sheet or form. The agency shall also provide the ownership information to any towing company or garagekeeper with whom the agency has a contract. If a public agency attempts to verify ownership information through TIES and the response is "Not on File," the agency shall contact the department of revenue title and registration division which shall search records not contained in TIES for the ownership information. If the title and registration division locates ownership information through this search, it shall notify the appropriate public agency and the agency shall distribute the information as provided in this subsection (f). When any other person takes possession of a vehicle found abandoned, immobile, or unattended, the action shall be reported immediately to the taxpayer and vehicle services division for verification of ownership on a form prescribed and provided by the registrar of motor vehicles.

(g)(1) In addition to the notification requirements of subsection (a), any garagekeeper or towing firm, which has in its possession an abandoned, immobile or unattended motor vehicle taken into custody by a police department, and in whose possession the vehicle was lawfully placed by the police department, shall, within three (3) business days after such motor vehicle is taken into its possession, verify ownership of such motor vehicle pursuant to subsection (f). The garagekeeper or towing firm shall, within three (3) business days after receiving verification of ownership, provide notice to the last known registered owner of the motor vehicle and all lienholders of record. All notification requirements included in subsection (a) shall apply to the notice required to be provided by a garagekeeper or towing firm pursuant to this section.

(2) A garagekeeper or towing firm that does not verify ownership of a motor vehicle within three (3) business days after taking possession of such motor vehicle pursuant to this section or that does not notify by mail the owner of such motor vehicle within three (3) business days after receiving verification of ownership from the appropriate state department or agency shall not be entitled to receive more than six (6) days of storage-related expenses. A garagekeeper or towing firm that is found by a court of competent jurisdiction to have failed upon presentment of payment for towing and storage expenses to release a motor vehicle shall be subject to civil liability to a vehicle owner, secured creditor, lessor or lienholder who prevails in an action brought under this section for reasonable costs and attorney's fees incurred by the person instituting the action.

(3) If the owner of the vehicle or the owner's agent is present at the time that the vehicle is placed into the custody of a garagekeeper or towing firm, then this subsection (g) shall not apply to the garagekeeper or towing firm; provided, however, that this subdivision (g)(3) does not exempt the garagekeeper or towing firm from any other notification requirements under this section or other provision of law.

55-16-110. Towing advisory board. [Effective until July 1, 2020.]

(a) There is created the towing advisory board ("the board"), consisting of the following nine (9) members:

(1) One (1) current sheriff, to be appointed by the Tennessee Sheriffs' Association;

(2) One (1) current police chief, to be appointed by the Tennessee Association of Chiefs of Police;

(3) The colonel of the highway patrol or the colonel's designee;

(4) One (1) individual, to be appointed by the district attorneys general conference;

(5) One (1) individual, to be appointed by the commissioner of commerce and insurance;

(6) Three (3) individuals, to be appointed by the Tennessee Tow Truck Association; and

(7) One (1) private citizen, to be elected by the board who is not affiliated with any of the above listed entities.

(b)(1) A person appointed to the board shall:

(A) Be appointed to a three-year term, and shall begin on July 1 and terminate on June 30, three (3) years thereafter;

(B) Serve from the date of appointment until a replacement is appointed;

(C) Be a resident of this state; and

(D) Not have been convicted of a felony.

(c) When a vacancy occurs in the appointed membership for any reason, the replacement shall be appointed from the same entity in accordance with subsection (a) for the remainder of the unexpired term.

(d) The colonel of the highway patrol or the colonel's designee shall call the first regular meeting of the board. The board shall elect a chair and a vice chair from differing industries at its first regular meeting of each calendar year. The chair and vice chair shall serve a maximum of two (2) consecutive years.

(1) The vice chair shall:

(A) Record the minutes of each meeting; and

(B) In the event the chair is unable to attend a meeting, the vice chair shall assume the position of chair for that meeting, and the vice chair shall designate another board member to record the minutes.

(2) The board shall never elect a chair or vice chair from the same industry for two (2) consecutive terms.

(e) The board shall meet at least twice each year.

(f) Any seven (7) voting members shall constitute a quorum for required board elections and towing related recommendations.

(g) A member of the board shall not receive compensation, benefits, per diem, or travel expenses for the member's service. A member shall not give or receive gifts or favors, which impairs, or gives the appearance of impairing, the member's ability to provide full, unbiased public service.

(h) The board may advise the towing industry and law enforcement agencies on the adoption of policies and other issues related to the towing industry.

(i) The board shall annually report the board's recommendations to the transportation and safety committee of the senate and the transportation committee of the house of representatives on or before November 30 of each year.

(j) This section is deleted on July 1, 2020.

55-17-114. Grounds for denial, suspension, or revocation of license.

(a)(1) The commission may deny any application for a license or revoke or suspend any license after it has been issued upon finding that:

(A) The applicant or license holder was previously the holder of a license issued under this part or part 4 of this chapter, which license was revoked for cause and never reissued by the commission, or which license was suspended for cause and the terms of suspension have not been fulfilled;

(B) The applicant or license holder was previously a partner, stockholder, director or officer controlling or managing a partnership or corporation whose license issued under this part or part 4 of this chapter was revoked for cause and never reissued or was suspended for cause and the terms of the suspension have not been terminated;

(C) The licensee or applicant has been convicted of a crime of moral turpitude and fewer than five (5) years have passed since the licensee or applicant has completed serving the licensee's or applicant's sentence, including parole or probation, whichever is later;

(D) The applicant or license holder has filed an application for a license that as of its effective date was incomplete in any material respect or contained any statement that was, in light of the circumstances under which it was made, false or misleading with respect to any material fact;

(E) The applicant or license holder has willfully and continually failed to pay the proper application or license fee;

(F) The applicant or license holder has practiced fraud in the conduct of business; or

(G)(i)*(a)* The license holder has failed to return to a customer any parts that were removed from the motor vehicle and replaced during the process of repair if the customer, at the time repair work was authorized, requested return of the parts; provided, that any part retained by the license holder as part of a trade-in agreement or core charge agreement for a reconditioned part need not be returned to the customer unless the customer agrees to pay the license holder the additional core charge or other trade-in fee; and provided further, that any part required to be returned to a manufacturer or distributor under a warranty agreement or any part required by any federal or state statute, rule or regulation or local ordinance to be disposed of by the license holder need not be returned to the customer; or

(b) The license holder has failed to permit inspection of any parts retained by the license holder if the customer, at the time repair work was authorized, expressed the customer's desire to inspect the parts; provided, that if, after inspection, the customer requests return of the parts, the restrictions set forth in subdivision (a)(1)(G)(i)(*a*) shall apply;

(ii)*(a)* The license holder has failed to post in a prominent location notice of this subdivision (a)(1)(G); or

(b) The license holder has failed to print on the repair contract notice of this subdivision (a)(1)(G); or

(iii) The license holder need not retain any parts not returned to the customer after the motor vehicle has been returned to the customer.

(2) The commission shall promulgate a rule to provide that consumer information regarding chapter 24 of this title will be made available to their

customers.

(b)(1) In addition to the grounds contained in subsection (a), the commission may deny an application for a license or revoke or suspend the license of a motor vehicle dealer or salesperson who:

(A) Has required the purchaser of a motor vehicle as a condition of sale and delivery thereof to also purchase special features, appliances, accessories or equipment not desired or requested by the purchaser, unless the features, appliances, accessories or equipment are the type that are ordinarily installed on the vehicle by the manufacturer or distributor when the vehicle is received or acquired by the dealer;

(B) Has represented or sold as a new or unused motor vehicle any vehicle that has been operated for demonstration purposes or that is otherwise a used motor vehicle;

(C) Has sold or offered for sale as a new or unused motor vehicle any motor vehicle for which the dealer or salesperson cannot secure for the purchaser of the motor vehicle such new car warranty as may be extended by the manufacturer of the vehicle to purchasers of one (1) of its new vehicles, unless the fact that the vehicle is being sold without a manufacturer's warranty is communicated to the purchaser and disclosed prominently in writing on the bill of sale;

(D) Has no established place of business that is used or will be used primarily for the purpose of selling, buying, displaying, repairing or servicing motor vehicles;

(E) Resorts to or uses false or misleading representations in connection with that person's business as a motor vehicle dealer or salesperson; provided, that dealers are specifically authorized to charge a document preparation fee, processing fee or servicing fee in addition to the sales price of the motor vehicle and these fees shall not be deemed to be a false or misleading representation made in connection with the sale of a motor vehicle, nor a violation of the Tennessee Consumer Protection Act of 1977, compiled in title 47, chapter 18, part 1; and provided further, that the amount of these fees is separately stated and clearly and conspicuously disclosed on the face of the sales contract or buyer's invoice prior to the buyer's execution thereof. For purposes of this subdivision (b)(1)(E), the disclosure shall be deemed to be "conspicuous" if it is listed on the contract or invoice in the same place and manner and in type face no smaller or less obvious than the other type face used therein with respect to other charges listed, and shall be deemed to be "clear" if it states that the charge is a fee for "document preparation," "processing" or "servicing" or language or abbreviations to the same or a similar effect. The authorization provided by this subdivision (b)(1)(E) shall not apply if the dealer represents to the buyer that the fee is required by or will be paid to any governmental agency or entity;

(F) Gives false or fictitious names or addresses for the purpose of registering the sale of a motor vehicle or who makes application for the registration of a motor vehicle in the name of any person other than the true owner;

(G) Employs any person who has not been licensed as a salesperson pursuant to this part;

(H) Fails to reasonably supervise agents, salespersons or employees;

(I) Uses or permits the use of special license plates assigned to that

person for any purpose other than those permitted by law;

(J) Disconnects, turns back or resets the odometer of any motor vehicle in violation of state or federal law, except as provided for in § 39-14-132(b);

(K) Commits any act or practice involving the purchase, sale, repair or servicing of a motor vehicle or the parts or accessories of a motor vehicle, that, in the opinion of the commission, is false, fraudulent or deceptive;

(L) Increases the price of a new motor vehicle to a retail customer after the dealer has accepted an order of purchase or a contract from a buyer, except that a trade-in vehicle may be reappraised if it subsequently suffered damage, or parts or accessories have been removed. Price differences applicable to new models or a new series of motor vehicles at the time of the introduction of new models or new series shall not be considered a price increase or price decrease;

(M) Possesses any certificate of title that is not a closed title, unless the motor vehicle dealer maintains an executed consignment form developed by the commission on each motor vehicle that does not have a closed title;

(N) Issues more temporary plates than allowed by law or fails to maintain a record of the issuance of temporary plates;

(O) Engaged in curbstoning, as defined in § 55-16-103;

(P) Prior to a motor vehicle being subject to a public automobile auction, the public automobile auctioneer shall verify that the motor vehicle has a clean and unencumbered title, by obtaining a valid motor vehicle title history from the department of revenue or if the motor vehicle is registered in a state other than this state, the appropriate titling agency in the other state;

(Q) All public automobile auctions must take place at the established place of business listed on the motor vehicle dealer license;

(R) The public automobile auction shall not sell new or unused motor vehicles or vehicles with a manufacturer's statement of origin;

(S) The public automobile auctioneer shall take possession of and retain title to each motor vehicle offered for sale at the auction. If the sale is finalized on a motor vehicle, the owner of the vehicle shall sign the title over to the public automobile auctioneer who shall then sign the title over to and deliver the title to the buyer on the date of the sale. If a sale of the vehicle is not made, then the unsigned title shall be returned to the owner of the vehicle who offered the vehicle for sale at the auction. At all times, the public automobile auction shall be deemed the seller of the motor vehicle with the same duties and responsibilities as other licensed motor vehicle dealers; or

(T) **[Effective on January 1, 2019.]** Fails to maintain a record of a customer's motor vehicle liability insurance coverage or other proof of financial responsibility for any customer who is issued a temporary plate by a motor vehicle dealer who finances the sale of used motor vehicles and retains the title to such vehicles. The record shall be maintained in the same manner or for the same period of time as the record of issuance of temporary plates described in subdivision (b)(1)(N).

(2) Whenever any licensee pleads guilty or is convicted of the offense of odometer tampering or any other criminal offense involving moral turpitude, the licensee must within sixty (60) days so notify the commission and must provide the commission with certified copies of the conviction. The licensee's

license shall automatically be revoked sixty (60) days after the guilty plea or conviction unless, during the sixty-day period, the licensee makes a written request to the commission for a hearing. Following the hearing, the commission in its discretion may impose upon the licensee any sanction permitted by this part.

(3) A motor vehicle dealer shall pay off the agreed upon indebtedness on the trade-in vehicle within thirty (30) days after the dealer has received actual payment on the financing contract for the new motor vehicle purchase.

(4)(A) Notwithstanding any law to the contrary, the commission may revoke or suspend the license of or levy a civil penalty against any motor vehicle dealer who, in a motor vehicle transaction that is conditioned upon final funding to the dealer by a third-party financial institution, fails to:

(i) Provide in writing to the customer the conditional delivery agreement set forth in subdivision (b)(4)(D);

(ii) Retain possession of any vehicle used by the consumer as consideration, commonly known as a trade-in vehicle, until the dealer has received funding from the financial institution;

(iii) Allow the consumer to void the motor vehicle transaction if any of the terms of the transaction change after the consumer has approved and accepted the terms; or

(iv) Pay off the agreed upon indebtedness on the trade-in vehicle within thirty (30) days after the dealer has received funding from the financial institution on the financing contract for the new purchase.

(B) As used in this subdivision (b)(4), "funding" means actual payment to the dealer by the financial institution purchasing the financing contract or lease.

(C) Compliance with subdivisions (b)(4)(A) and (B) may not be waived by any consumer.

(D) The form of the conditional delivery agreement shall be as follows:

CONDITIONAL DELIVERY AGREEMENT

THIS TRANSACTION IS NOT FINAL

YEAR: _____ MAKE: _____ MODEL:_____ VIN#: ___

I understand that I am taking possession of this vehicle prior to approval from a financial institution and that this transaction is conditioned upon final approval by a lender and funding to the Dealer. I further understand that by taking possession of this vehicle I have agreed to its purchase at the price agreed upon with the Dealer as shown on the financing contract.

I give the Dealer authorization to investigate my credit and place the financing contract with the lender of their choosing. I understand that if the Dealer is unable to obtain final funding of the financing contract within _____(____) business days, or if I am unable to obtain financing of my own within 24 hours after notification from the Dealer that the financing contract has been denied, I will be required to return the vehicle to the Dealer. I agree that if I do not promptly return the vehicle that the Dealer may repossess the vehicle from me wherever it may be found. If a lender requires additional conditions from me before accepting the contract, I will use my best efforts to immediately comply with such conditions. If I do not meet or agree to accept any additional conditions or terms, this purchase and the financing contract will be void.

I agree that the Dealer has the right to rely on any representation made by me in connection with the purchase contract and the financing contract, including information I provided on the credit application. In the event any representations are incorrect or false, the Dealer has the right to cancel the purchase and the financing contract immediately.

I understand that I am liable for any personal injuries and physical damage that might occur to the vehicle or to other persons or property due to my operation of the vehicle, including any fines charged against the vehicle, even in the event that I am required to return the vehicle. I agree to indemnify the Dealer against such losses. In addition, I have provided evidence of collision/comprehensive and liability insurance which will cover any damage which might occur to the vehicle or other property or persons during my operation of the vehicle. Until this is final, I am responsible for any payments due or to come due on my trade-in vehicle.

Dealer: (Type in or stamp dealer name)

_____

Customer(s)

_____

Print Name

_____

Date

(c) In addition to the grounds contained in subsection (a), the commission may deny an application for a license, or revoke or suspend the license of a manufacturer, distributor, distributor branch, factory branch or officer, agent or other representative thereof who has:

(1) Refused to deliver to any motor vehicle dealer having a franchise or contractual arrangement for the retail sale of new and unused motor vehicles sold or distributed by the manufacturer, distributor, distributor branch or factory branch any motor vehicle publicly advertised for immediate delivery within sixty (60) days after the dealer's order has been received;

(2) Sold or offered for sale to a franchised dealer any supplies, material, or other things of value at the time of and as a part of the negotiations for a new or renewal franchise or contract renewing or extending for an additional period of time the dealer's franchise agreement, regardless of whether the sale or offer of sale shall be made a prerequisite to the renewal of a franchise agreement or not;

(3) Unfairly or without due regard to the equities or without just provocation cancelled or failed to renew the franchise or selling agreement of a motor vehicle dealer;

(4) Entered into a franchise agreement with a dealer who does not have, or is not able to provide, proper facilities to provide the services to the purchasers of new motor vehicles that are guaranteed by the new car warranties issued by the manufacturer;

(5) Prevented or required, or attempted to prevent or require, by contract or otherwise, any change in the capital structure of the dealership or the means by or through which the dealer finances the operation of the dealership; provided, that the dealer at all times meets any reasonable capital standards agreed to by the dealer and the manufacturer or distributor; and provided further, that no change in capital structure shall cause a change in the principal management or have the effect of a sale of the

franchise without the consent of the manufacturer or distributor;

(6) Prevented or required, or has attempted to prevent or require, a dealer to change the executive management of the dealership, other than the principal dealership operator or operators, if the franchise was granted to the dealer in reliance upon the personal qualifications of the person or persons;

(7) Prevented or required, or has attempted to prevent or require, by contract or otherwise, any dealer, or any officer, partner, or stockholder of any dealership, the sale or transfer of any part of the interest of any of them to any other person or persons. No dealer, officer, partner, or stockholder, however, has the right to sell, transfer, or assign the franchise, or any right thereunder, without the consent of the manufacturer or distributor, except that the consent shall not be unreasonably withheld;

(8) Prevented, or has attempted to prevent, a dealer from receiving fair and reasonable compensation for the value of the franchise business. There shall be no transfer or assignment of the dealer's franchise without the consent of the manufacturer or distributor, which consent shall not be unreasonably withheld;

(9) Obtained money, goods, service, or any other benefit from any other person with whom the dealer does business, on account of, or in relation to, the transaction between the dealer and such other person, other than for compensation for services rendered, unless the benefit is promptly accounted for, and transmitted to the dealer;

(10) Required a dealer to prospectively assent to a release, assignment, novation, waiver, or estoppel that would relieve any person from liability to be imposed by this part, or has required any controversy between a dealer and manufacturer, distributor, or its representative, to be referred to any person other than the commission if the referral would be binding on the dealer. This subdivision (c)(10) shall not, however, prohibit arbitration before an independent arbitrator or the commencement of any legal action;

(11) Increased prices of motor vehicles that the dealer has ordered but not delivered for private retail customers prior to the dealer's receipt of the written official price increase notification. A sales contract by a private retail customer shall constitute evidence of each such order. In the event of manufacturer price reductions, the amount of any reduction received by a dealer shall be passed on to the private retail customer by the dealer, if the retail price was negotiated on the basis of the previous higher price to the dealer. Price reduction shall apply to all vehicles in the dealer's inventory that are subject to the price reduction. Price differences applicable to new models or a new series of motor vehicles at the time of the introduction of new models or new series shall not be considered a price increase or price decrease. Price changes caused by either:

(A) The addition to a motor vehicle of required or optional equipment pursuant to state or federal law; or

(B) Revaluation of the United States dollar in the case of foreign-make vehicles;

shall not be subject to this subsection (c);

(12) Failed to pay a dealer, within a reasonable time following receipt of a valid claim by a dealer thereof, any payment agreed to be made by the manufacturer or distributor to the dealer by reason of the fact that a new vehicle of a prior year model is in the dealer's inventory at the time of

introduction of new model vehicles;

(13) Denied or attempted to deny the surviving spouse or heirs designated by a deceased owner of a dealership, the opportunity to participate in the ownership of the dealership or a successor dealership under a valid franchise after the death of the owner, unless there are reasonable grounds for the denial;

(14) Offered any refunds or other types of inducements to any person for the purchase of new motor vehicles of a certain line-make to be sold to the state or any political subdivision thereof or to any other person without making the same offer to all other dealers in the same line-make within the state;

(15) Employed any person as a representative who has not been licensed pursuant to this part;

(16) Denied any dealer the right of free association with any other dealer for any lawful purpose;

(17) Competed with a dealer in the same line-make operating under an agreement or franchise from a manufacturer or distributor in the relevant market area. A manufacturer or distributor shall not, however, be deemed to be competing when operating a dealership either temporarily for a reasonable period of time, or when operating a bona fide retail operation that is for sale to any qualified independent person at a fair and reasonable price, or when there is a bona fide relationship in which an independent person has made a sufficient investment subject to loss in the dealership and can reasonably expect to acquire full ownership of subject dealership on reasonable terms and conditions. An exclusive motor truck manufacturer, when selling vehicles having a gross vehicle weight over six thousand (6,000) pounds, shall not be deemed to be competing when operating a dealership that sells motor trucks at retail if, for at least six (6) years prior to January 1, 1977, the manufacturer has continuously so operated the dealership;

(18) Unfairly discriminated among its franchisees with the respect to warranty reimbursement or authority granted its franchisees to make warranty adjustments with retail customers;

(19) Sold motor vehicles to persons not licensed under this part as motor vehicle dealers, except as provided in § 55-17-102(1)(C);

(20) Granted a competitive franchise in the relevant market area previously granted to another motor vehicle dealer. "Relevant market area," as used in this subdivision (c)(20), means that area as described or defined in the then existing franchise or dealership of any dealer or dealers; provided, that if the manufacturer wishes to grant a franchise to an independent dealer, or to grant an interest in a new dealership to an independent person in a bona fide relationship in which the person has made a sufficient investment subject to loss in the dealership, and can reasonably expect to acquire full ownership of the dealership on reasonable terms and conditions, then the manufacturer shall give written notice to the existing dealer or dealers in the area, and the matter shall be submitted to the commission for final and binding action under the principles herein prescribed for a determination of the relevant market area, the adequacy of the servicing of the area by the existing dealer or dealers and the propriety of the granting of additional dealerships. The complaint, whether filed by an existing dealer or upon motion of the commission, shall be filed within thirty (30) days of the receipt by affected dealers of notice as required herein, and if no protests are

filed, the manufacturer may proceed to grant the additional franchise;

(21) Committed any other act prejudicial to the dealer by threatening to cancel the franchise or any contractual agreement existing between the dealer and the manufacturer, manufacturer branch, distributor, or distributor branch. Written notice in good faith to any dealer of the dealer's violations of any terms or provisions of the franchise or contractual agreement shall not constitute a violation of this subsection (c);

(22) Coerced or attempted to coerce any motor vehicle dealer to accept delivery of any motor vehicle or motor vehicles, appliances, equipment, parts, tools or accessories therefor, or any other commodity or commodities that have not been voluntarily ordered by the dealer;

(23) Coerced or attempted to coerce any motor vehicle dealer to contribute or pay money or anything of value into any cooperative or other advertising program or fund;

(24) Coerced or attempted to coerce any motor vehicle dealer to engage in any business pursuit that is not directly related to the sale of motor vehicles as defined by the commission; or

(25) Forced, coerced or otherwise required a franchisee to use reconditioned parts in warranty repairs without disclosing such to the owner or lessee.

(d) In addition to the grounds contained in subsection (a), the commission may deny an application for a license or revoke or suspend the license of an automobile auction or agent thereof who has:

(1) If acting as an automobile auction as defined in § 55-17-102(1)(A), willfully permitted any person or persons to buy, sell, exchange or in any other manner participate in automobile auction sales without first determining that the person or persons are duly licensed motor vehicle dealers or duly authorized agents licensed either under this part or under a similar act of another state, unless a motor vehicle dealer license is not required by law;

(2) Failed to provide and make available for inspection to the commission or its agents, all books, records and other memoranda of all transactions, transfers or sales of motor vehicles that take place during the course of business;

(3) Engaged in the business of an automobile auction or agent without posting the bond required by law; or

(4) If acting as an automobile auction as defined in § 55-17-102(1)(B), sold motor vehicles on consignment without showing on the title that the motor vehicle was purchased directly from the auction and not from a third party.

(e) The commission may revoke or suspend any license that the commission has issued upon finding that the licensee has not maintained any of the requirements for issuance of such license.

55-17-125. Annual sales reports — Eligibility for dealer plates.

(a)(1) On or before February 15 of each year, each motor vehicle dealer shall submit to the commission an annual sales report indicating the number of motor vehicles sold by the dealer during the preceding calendar year, the number of dealer registration plates issued to the dealer during the year and the county or counties in which the plates were issued.

(2) Notwithstanding any other law to the contrary, if a motor vehicle dealer:

(A) Fails to timely file the annual sales report, the dealer shall not be eligible for any dealer registration plates until the annual sales report is filed;

(B) Timely files the annual sales report and sells twenty-four (24) or more motor vehicles during a calendar year, then there is a rebuttable presumption that the dealer is eligible to receive, retain, and use dealer registration plates otherwise authorized by § 55-4-226; or

(C) Timely files the annual sales report, and sells fewer than twenty-four (24) motor vehicles during a calendar year or if a dealer engaged in business for only a portion of the calendar year but sold fewer than two (2) vehicles on average per month during this portion of the year, then the dealer is eligible to receive, retain, and use up to three (3) dealer registration plates. Upon written request by the dealer and with justification shown, the motor vehicle commission may approve the issuance of additional plates. The commission shall furnish to each county clerk a listing of eligible dealers.

(3) If pursuant to this section, a dealer is no longer eligible to receive, retain or use dealer registration plates, then the commission is authorized to undertake appropriate action to take possession of any plates issued to the dealer and shall promptly forward the plates to the department of revenue.

(b) Upon request of the commission, the department shall make available for the commission's inspection departmental information concerning the number of dealer registration plates issued to each dealer.

55-17-417. Annual sales report.

(a)(1) On or before February 15 of each year, each recreational vehicle dealer shall submit to the commission an annual sales report indicating the number of recreational vehicles sold by the recreational vehicle dealer during the preceding calendar year, the number of recreational vehicle dealer registration plates issued to the dealer during the year, and the county or counties in which the plates were issued.

(2) Notwithstanding any other law to the contrary, if a recreational vehicle dealer:

(A) Fails to timely file the annual sales report, the recreational vehicle dealer shall not be eligible for any recreational vehicle dealer registration plates until the annual sales report is filed;

(B) Timely files the annual sales report and sells twenty-four (24) or more recreational vehicles during a calendar year, then there is a rebuttable presumption that the recreational vehicle dealer is eligible to receive, retain, and use dealer registration plates otherwise authorized by § 55-4-226; or

(C) Timely files the annual sales report, and sells fewer than twenty-four (24) recreational vehicles during a calendar year or if a recreational vehicle dealer engaged in business for only a portion of the calendar year but sold fewer than two (2) recreational vehicles on average per month during this portion of the year, then the recreational vehicle dealer is eligible to receive, retain, and use up to three (3) recreational vehicle dealer registration plates. Upon written request by the recreational vehicle dealer and with justification shown, the motor vehicle commission may approve the issuance of additional plates. The commission shall furnish to each county clerk a listing of eligible recreational vehicle

dealers.

(3) If pursuant to this section, a dealer is no longer eligible to receive, retain, or use recreational vehicle dealer registration plates, then the commission is authorized to undertake appropriate action to take possession of any plates issued to the recreational vehicle dealer and shall promptly forward the plates to the department of revenue.

(b) Upon request of the commission, the department shall make available for the commission's inspection departmental information concerning the number of recreational vehicle dealer registration plates issued to each recreational vehicle dealer.

55-21-103. Distinguishing registration, license plates, placards — Issuance to disabled or wheelchair-confined persons — Motor vehicle rentals — Cost — Expiration.

(a)(1) The department shall, upon application accompanied by a physician's statement or an affidavit from a Christian Science practitioner listed in The Christian Science Journal, provide and issue registration and license plates of distinctive design to disabled drivers and placards of distinctive design to disabled passengers. No physician or Christian Science practitioner shall provide a statement for use under this chapter unless the applicant therefor is disabled by one (1) or more of the conditions set out in § 55-21-102, and the nature of the disability shall be set forth in the statement. Placards shall be personal to the disabled driver or passenger, and shall only be used by that person. Any other person using a placard commits a misdemeanor and shall be punished as provided for in § 55-21-108. The cost of any such registration and license plates shall be paid by the disabled driver or disabled passenger.

(2) Notwithstanding subdivision (a)(1), one (1) registration and license plate per family shall be provided free to those disabled persons who are permanently and totally confined to a wheelchair, when so certified by a physician's statement.

(3) More than one (1) registration and license plate per family shall be provided free if more than one (1) member of the family is permanently and totally confined to a wheelchair and is the owner or lessee of a motor vehicle.

(4) Any person qualifying under subdivisions (a)(2) and (3) is the titled owner or lessee of the vehicle.

(5) Notwithstanding this subsection (a) to the contrary, an owner or lessee of a motor vehicle who is a resident of this state and is the parent or legal guardian of an individual who is permanently disabled, whose permanent disability is certified by the physician's statement, and who does not own and is incapable of operating a motor vehicle, shall receive a disabled plate upon payment of any applicable fees. The certificate of title and registration shall remain in the name of the parent or legal guardian. In order to receive a disabled plate under this subdivision (a)(5), the parent or legal guardian shall verify under penalty of perjury upon a form prescribed by the department that the parent or guardian is the parent or legal guardian of the permanently disabled individual.

(6) Notwithstanding this subsection (a) to the contrary, the department shall provide any person qualifying for a registration and license plate under subdivision (a)(1) who applies for and receives a registration and license

plate in a category identified in § 55-4-203(a), a decal of distinctive design to disabled drivers to affix to such plate. Registration and license plates having such a decal properly affixed shall be a recognized symbol for the purposes of this part. The cost of such decal shall be considered a cost incurred by the department of revenue in designing, manufacturing, and marketing such plate pursuant to chapter 4, part 2 of this title.

(b)(1) Any person who qualifies for issuance of a distinguishing license plate, or any disabled passenger, may also apply to the department for issuance of a distinguishing placard. The placard may be used in lieu of the distinguishing license plate for parking purposes when displayed in accordance with the directions written on or supplied with the placard. The department may establish procedures for the issuance of the placards.

(2)(A) Placards may be either permanent or temporary.

(B)(i) Permanent placards may be issued under this part to persons who are permanently disabled and whose permanent disability is noted on the physician's statement. All placards shall be issued directly by the department. If the applicant is eligible for a disabled license plate, the placard shall be furnished without charge. If the applicant has not applied for vehicle registration, then the cost of the placard shall be the same as the regular fee for passenger motor vehicles, as provided in § 55-4-111. Permanent placards shall be of a distinct design and color as established by the commissioner of safety.

(ii) Any person who is permanently confined to a wheelchair and who does not own and is not physically capable of operating a motor vehicle may apply to the department for issuance of one (1) distinguishing disabled placard for the exclusive personal use of that person. This placard shall be in lieu of any disabled registration plates, and shall be provided by the department without charge to the qualified applicant, upon receipt by the department of an application accompanied by a physician's statement, as provided in subsection (a).

(C) Temporary placards may be issued under this part to persons who are temporarily disabled by a nonambulatory or semi-ambulatory condition due to surgery, bone fracture or breakage, or similar condition, and whose temporary disabling condition and the estimated duration of the condition is noted on the physician's statement. Temporary placards shall be issued for the estimated duration of the condition, but not in excess of six (6) months, at a cost of ten dollars ($10.00). Temporary placards may be reissued for a similar period at the same cost. Temporary placards shall be of a different design and color than permanent placards and shall prominently note the expiration date.

(3) A disabled driver may receive a second placard if there is a second car registered in the name of the disabled driver or a member of that driver's immediate family who resides with the driver. The second placard shall be issued without additional charge. The second placard shall be used to obtain disabled parking privileges only by the disabled driver.

(c) The commissioner is requested to include a notice on disabled placards, if feasible, of the conditions attached to their use and the penalties for misuse, or, in the alternative, to furnish that information to recipients of the placards.

(d) Upon receipt of an application by an agency transporting disabled clients, the department shall issue a placard to the agency for the sole purpose of transporting disabled clients. The number of placards issued to the agency

may not exceed the number of vehicles owned and operated for the purpose of transporting disabled clients. The use of the placard or placards for any other purpose shall constitute the forfeiture of the placard or placards for the agency.

(e) When the recipient of a disabled parking placard dies, the placard shall be returned to the commissioner by the responsible representative of the deceased.

(f)(1) A permanent placard as defined by subdivision (b)(2)(B), shall expire two (2) years from the date it is issued. The expiration date of the placard shall be prominently displayed on the placard. The person to whom the permanent placard is issued may renew the placard in accordance with rules established by the department. The renewal fee shall be three dollars ($3.00); provided, that there shall be no renewal fee for a person permanently confined to a wheelchair, as defined in subdivision (b)(2)(B)(ii), nor to a disabled veteran, as defined in § 55-4-256(a)(3) or (b). Any person issued a temporary placard must submit a new certification pursuant to § 55-21-102(3)(A) or (3)(C), prior to the department renewing the temporary placard.

(2) The provisions of subdivision (f)(1), concerning the renewal fee and exemptions from the fee, shall be applicable to the renewal of existing placards. Persons who are permanently disabled shall not be required to submit certification pursuant to § 55-21-102(3)(A) or (3)(C) prior to the department's renewing the permanent placard.

(g) Upon receipt of an application by an agency providing motor vehicle rentals to disabled clients, the department shall issue a placard to the agency for the sole purpose of renting accessible motor vehicles to disabled clients. The number of placards issued to the agency may not exceed the number of vehicles owned and operated for the purpose of providing accessible motor vehicle rentals to disabled clients; provided, that placards shall only be issued for vehicles permanently equipped with a wheelchair ramp or lift. The use of such placard or placards for any other purpose, or on any motor vehicle not permanently equipped with a wheelchair ramp or lift, shall be grounds for the forfeiture of the placard or placards issued to the agency in a manner otherwise consistent with this part.

55-21-104. Symbol of registration and license plates.

(a) Registration and license plates for disabled drivers shall have a stylized wheelchair symbol, such as that indicating access for the disabled as set out in the Symbol Sourcebook: An Authoritative Guide to International Graphic Symbols, by Henry Dreyfus, published by McGraw-Hill in New York; or some other approved uniform or international symbol for the disabled.

(b) The style of registration and license plates for disabled veterans pursuant to § 55-4-256 shall be a recognized symbol for the purposes of this part.

55-21-106. Disabled veterans and persons with a physical disability — Certificate of identification — Parking.

(a) Any veteran who has been honorably discharged from any of the armed services of the United States and who has a service-connected disability equivalent to the disabilities as prescribed in § 1 of Public Law 187 of the eighty-second congress, first session, and any person with a physical disability who possesses material incapacity for ambulation, shall be entitled to receive,

and the department is authorized to issue, under such rules and upon such application as the department shall prescribe, a serially numbered certificate of identification for the personal use of the veteran or person with a physical disability.

(b) The veteran or person with a physical disability shall be entitled to courtesy in the parking of the automobile which shall relieve the veteran or person with a physical disability from liability for any violations with respect to parking, other than in violation of this section or § 55-8-160(a)(15).

(c) Any local authority may, by ordinance, prohibit parking on any street or highway for the purpose of creating a fire lane or to provide for the accommodation of heavy traffic during morning and afternoon rush hours, and the privileges extending to veterans and persons with physical disabilities in this section shall not apply on streets or highways where and at the times the parking is so prohibited.

(d) Any certificate issued as provided in this section shall be displayed prominently upon the automobile while being parked by or under the direction of the veteran or person with a physical disability pursuant to this section.

(e) Upon conviction of any offense involving a violation of the special privileges conferred upon holders of these special certificates, a magistrate or judge trying the case shall be authorized, as a part of any penalty imposed therein, to confiscate the serially numbered certificate provided for in this section and to return the certificate to the secretary of state, together with a certified copy of the sentence so imposed.

(f) Any person, other than the veteran or person with a physical disability to whom it was issued, who uses any certificate of identification for the purpose of parking an automobile as permitted by this section, commits a Class A misdemeanor.

(g) As to any application for a certificate, any official finding or rating as to disability within the requirements of this section by the United States veterans' administration shall be sufficient evidence of the qualifications of the applicant.

(h) As used in this section, "certificate" includes registration and license plates issued free to disabled veterans under the authority of § 55-4-256.

55-50-308 — 55-50-310. [Reserved.]

55-50-321. Applications. [Amendment contingent on funding by the federal selective service system. See the Compiler's Notes.]

(a) Every application for a driver license, instruction permit, intermediate driver license, and photo identification card shall be made upon a form furnished by the department. Every application shall be accompanied by a birth certificate or other proof of the applicant's date of birth that is satisfactory to the driver license examiner and by a nonrefundable fee of two dollars ($2.00), which shall constitute expendable receipts of the department. The application shall also be accompanied by proof of Tennessee residency acceptable to the department.

(b) The driver license examiner is authorized and required to obtain positive proof of age and identification of any person taking an examination for a driver license. The applicant shall make certification on the application as to the applicant's age and identification, and, in addition, shall submit to the driver

license examiner other documentation meeting the criteria established by rules promulgated by the commissioner as proof of age and identification, or present to the driver license examiner one (1) person who possesses a valid driver license issued in this state who shall attest, in writing, under oath, that the applicant has truthfully identified the applicant in the applicant's affidavit. For applicants under eighteen (18) years of age, the oath may be administered to, and the affidavit attested and signed by, a parent or legal guardian of the applicant, if the parent or legal guardian possesses a valid driver license issued in this state. The driver license examiners are empowered and authorized to administer oaths to applicants and attesting witnesses and to take affidavits.

(c)(1)(A) Every application shall state the full name, date and place of birth, sex, county of residence, 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, of applicant, height, weight, hair and eye color, social security number, if the applicant has been issued a social security number, and whether any such license has ever been suspended or revoked, or whether an application has ever been refused, and, if so, the date of and reason for the suspension, revocation, or refusal, and other information as the department may require to determine the applicant's identity, competency, and eligibility. The information regarding the applicant's social security number shall be maintained in the records of the department of safety for use as required by any state or federal law relative to child support establishment or enforcement or for other purposes as may be required by law. If the department allows the use of a number other than the social security number on the face of the license, and the social security number obtained on the application is kept on file with the department, the department shall so advise the applicant. Any applicant for a Tennessee driver license who desires the assistance of an interpreter in order to make application for a license and complete the required application shall be responsible for procuring this assistance; provided, that nothing contained within this part shall be construed or implemented in any manner that violates the Americans With Disabilities Act (42 U.S.C. § 12101 et seq.).

(B) Any applicant who does not have, or who states that the applicant has never been issued, a social security number required by subdivision (c)(1)(A) shall complete an affidavit, under penalty of perjury, affirming that the applicant has never been issued a social security number.

(C) Any applicant applying for a driver license, instruction permit, intermediate driver license or photo identification license, upon initial issuance or reinstatement, shall provide either an original or certified copy of one of the following:

(i) Documentation that the applicant is a citizen of the United States; or

(ii) Documentation issued by the United States government establishing that the applicant is a lawful permanent resident.

(D) Any applicant who has received an initial issuance of a driver license since January 1, 2001, shall provide documentation as required in subdivision (c)(1)(C)(i) or (c)(1)(C)(ii) upon the first renewal date of the license.

(E) Any applicant applying for reinstatement on or after July 1, 2012, for which the department has the documents required in subdivision (c)(1)(C)(i) or (c)(1)(C)(ii) on file, shall be deemed in compliance with

subdivision (c)(1)(C) unless otherwise required by law.

(2) For applicants under eighteen (18) years of age, the application shall be accompanied by documentation of compliance with § 49-6-3017. No first-time applicant who is eighteen (18) years of age or younger suspended pursuant to § 55-50-502(a)(1)(J), shall be assessed a reinstatement fee by the department.

(d) Whenever an application is received from a person previously licensed in another jurisdiction, the department shall request a copy of the driver's record in this state with the same force and effect as though entered on the driver's record in this state in the original instance.

(e) Section 55-50-602 is applicable to any person who knowingly makes false or fraudulent certification as to the person's identification, date of birth, or driving privileges when making application for a driver license or photo identification license. The false attestation, knowingly made, is also punishable by suspension of the driver license of the person for two (2) years. The person shall be entitled to the rights and remedies established by the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, for contested case hearings.

(f) **[Effective December 1, 2002, if contingency met. See the Compiler's Notes.]** Every application form for an intermediate driver license, driver license, renewal of driver license or photo identification license shall contain the following language printed clearly thereon: "By submitting this application, I am consenting to registration with the Selective Service System, if so required by Federal Law."

(g) The department shall not accept matricula consular cards as proof of identification for driver license application and issuance purposes.

(h) Any applicant applying for a temporary driver license, temporary learner permit, temporary intermediate driver license or temporary photo identification license, upon initial issuance, renewal and reinstatement, shall provide proof acceptable to the department relative to the applicant's identity, Tennessee residency, and authorized period of stay in the United States.

(i)(1) Any person presenting a driver license from a state that issues driver licenses to illegal aliens for the purposes of obtaining a Tennessee driver license shall be required to establish proof of United States citizenship, lawful permanent resident status, or, in the case of a temporary driver license, a specified period of authorized stay in the United States.

(2) The department is authorized to promulgate rules necessary to effectuate this subsection (i) in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5. The department is also authorized to utilize any process to comply with any rules and regulations, exemptions, and policies promulgated by the United States secretary of homeland security or other state or federal agency.

55-50-322. Examination of applicants.

(a)(1)(A) The department shall examine every applicant for a driver license, intermediate driver license, learner permit, temporary driver license, temporary learner permit, and temporary intermediate driver license, except as otherwise provided in this part. This examination shall include a test of the applicant's eyesight to be administered according to standards set by the department, the applicant's ability to read and/or understand

highway signs regulating, warning and directing traffic, the applicant's knowledge of the traffic laws of this state, and shall include an actual demonstration of ability to exercise ordinary and reasonable control in the operation of a motor vehicle or combination of vehicles of the type covered by the license classification or endorsement that the applicant is seeking. The examination may also include further physical and mental examinations the department finds necessary to determine the applicant's fitness to operate a motor vehicle safely upon the highways.

(B) All such examinations given to persons under eighteen (18) years of age shall be written, with the exception of examination of the applicant's eyesight including, but not limited to, night vision performance. However, this restriction shall not apply to any person who, prior to January 1, 1990, obtained a valid license other than by written examination, or to any person with a medical condition, certified by a physician, which would render a written examination impractical, or to any handicapped child, including the learning disabled, certified by a specialist as unable to be tested by written examination.

(2) In addition, all examinations administered to applicants for a driver license or intermediate driver license shall include questions concerning drugs and alcohol, the effects of those substances on a person's ability to operate a vehicle and the applicable Tennessee laws pertaining to operating a vehicle while under the influence of alcohol or drugs, and the alcohol and drug related questions shall constitute one-fourth (¼) of the written examination. The department shall ensure the driver manual used to prepare applicants for the license examination includes sufficient information concerning drugs and alcohol to enable a reasonably diligent applicant to correctly answer the additional questions.

(b)(1) The department may waive the required knowledge and skills tests upon application for a Tennessee driver license by a nonresident who establishes residency in this state. The new resident must surrender a driver license or submit a certified report from the former state of residence. Either the license or the report shall verify that the license is not subject to cancellation, suspension or revocation and that the license is valid, or has not been expired in excess of six (6) months.

(2)(A) As used in this subdivision (b)(2), "valid military commercial driver license" means any commercial driver license that is recognized by any active or reserve component of any branch of the United States armed forces as currently being valid or as having been valid at the time of an applicant's separation or discharge from the armed forces that occurred within the two-year period immediately preceding the date of application for a commercial driver license.

(B) The department shall waive the required skills test upon initial application for a commercial driver license by any applicant who, at the time of initial application, has been issued, or is in immediate possession of, a valid military commercial driver license and who certifies on the application that, during the two-year period immediately preceding the date of application, the applicant:

(i) Has not had more than one (1) driver license, except for a valid military commercial driver license;

(ii) Has not had any driver license suspended, revoked, or cancelled in this state or any other state;

(iii) 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 any other state;

(iv) 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);

(v) Has not had any conviction for a violation of any military or state law or local ordinance relating to motor vehicle traffic control, in this or any other state, other than a parking violation, arising in connection with any traffic accident; and

(vi) Has no record of an accident in which the applicant was at fault.

(C) The applicant shall also certify on the application, and submit supporting documentation as required in subdivision (b)(2)(D), that the applicant:

(i) Is regularly employed or was regularly employed within the ninety-day period immediately preceding application in a position in the United States armed forces requiring operation of a commercial motor vehicle that is representative of the license class and endorsement for which the applicant is applying;

(ii) Is exempted or was exempted from the commercial driver license requirements in 49 CFR 383.3(c); and

(iii) Is operating or was 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 the two (2) years immediately preceding separation or discharge from the armed forces, in the case of an honorably discharged member, or for at least the two (2) years immediately preceding application, in the case of a member in active duty.

(D) The application shall be accompanied by the following documentation establishing the applicant's military occupational specialty and driving experience as indicated in subdivision (b)(2)(C):

(i) A notarized affidavit signed by a commanding officer, if the applicant is on active duty; or

(ii) If the applicant is honorably discharged from military service:

(a) A copy of the applicant's certificate of release of discharge from active duty, department of defense form 214 (DD 214); or

(b) A statement from the appropriate branch of the United States armed forces, certified by the department of veterans services.

(E) Any applicant who is a member of the active duty military, military reserves, national guard, or active duty United States coast guard or coast guard auxiliary whose temporary or permanent duty station is located in this state obtaining the skills test waiver under this subdivision (b)(2) shall submit documentation acceptable to the department establishing the applicant's current duty station assignment.

(F) An applicant who obtains the skills test waiver under this subdivision (b)(2) shall be required to successfully complete any applicable vision and knowledge tests, and pay the appropriate fees, other than the skills testing fee.

(c)(1) The examinations for applicants for commercial driver licenses shall

be conducted in compliance with 49 CFR part 383.

(2) The department is permitted to promulgate rules and regulations pertaining to third-party testing for the skills tests required for commercial driver licenses, in accordance with 49 CFR part 383.

(3) The department shall not reject the applicant for a commercial driver license if the examiner believes the condition of the vehicle is unsafe for operation, unless the examiner requests an inspection of the vehicle by a qualified commercial vehicle inspector of the department. This vehicle, and all commercial vehicles inspected by the department, shall be inspected in accordance with the North American Standard Uniform Inspection procedures outlined by the Commercial Vehicle Safety Alliance. A commercial vehicle placed out-of-service for mechanical or safety defects by the qualified inspector shall be placed out-of-service for safety defects as defined in the North American Uniform Out-of-Service Criteria. The applicant shall be given a written report listing all defects by the inspector and informed of necessary repairs to cause the vehicle to be in compliance. The examiner shall not conduct a road test if the commercial vehicle inspector determines that the vehicle does not meet the standards defined in the North American Uniform Out-of-Service Criteria.

(d) All persons who are in the United States armed forces and who are holders of driver licenses in this state may have their licenses renewed upon application to the department upon their return to Tennessee without further examination.

(e) Persons applying for reinstatement of a cancelled, suspended or revoked driver license shall not be required to take an eye test or knowledge and skills tests unless their license has been expired in excess of one (1) renewal cycle as provided in § 55-50-338(a)(3).

(f) An applicant who presents evidence acceptable to the department that the applicant has satisfactorily completed a driver education and training course offered for Class D vehicles by nonpublic schools in categories 1, 2, or 3 as recognized by the state board of education, a public school, a public institution of higher learning, or a commercial driver training school, operating under chapter 19 of this title, shall be deemed to have satisfactorily completed the department's examinations. The department may require the courses to include certain knowledge and skills examinations.

(g) The department may authorize early intervention programs and alcohol and drug safety DUI schools administered by the department of health to administer the knowledge element of the driver license examination, subject to oversight by the department of safety. A defensive driving program under the oversight of the department of safety may also administer the examinations. An applicant who presents evidence acceptable to the department that the applicant has satisfactorily completed such a knowledge examination shall be deemed to have successfully completed the knowledge element of the driver license examination.

(h) The department of education may incorporate a driver license knowledge examination developed by the department of safety as a part of proficiency tests administered to eighth and tenth grade students pursuant to § 49-6-6001. The driver license knowledge examination shall comply with the requirements of this section. An applicant who presents acceptable evidence to the department of safety that the applicant has satisfactorily completed such a knowledge examination shall be deemed to have successfully completed the

knowledge element of the driver license examination.

(i)(1) The department may enter into a memorandum of understanding with a foreign country, or the licensing authority of the foreign country, under which the department and the foreign country agree to grant like driving privileges to new residents operating motor vehicles in this state or the foreign country.

(2) The memorandum of understanding executed pursuant to subdivision (i)(1) shall be a reciprocal agreement under which the parties agree that:

(A) The foreign country or licensing authority shall waive any required knowledge and skills tests or equivalent tests upon application by a new resident who possesses a valid driver license from this state, and shall issue a driver license or equivalent license to the new resident; and

(B) The department shall waive the required knowledge and skills tests upon application by a new resident who possesses a valid driver license or equivalent license from the foreign country, and shall issue a driver license to the new resident, if the applicant presents documentation to the department that the applicant's presence in the United States is authorized by the United States department of homeland security.

(3) The memorandum of understanding may specify any of the following:

(A) That the foreign country shall verify the residency of the applicant in the foreign country prior to issuance of a driver license;

(B) That the department and the foreign country shall verify that the driver license held by the applicant is not subject to cancellation, suspension, or revocation and is valid, or has not been expired in excess of six (6) months; and

(C) Circumstances under which the department or the foreign country shall limit or deny issuance of a driver license.

(4) The department may enter into a memorandum of understanding with a foreign country regardless of whether the department has previously determined to administer a knowledge or skills test in the language of the foreign country.

(5) As used in this subsection (i):

(A) "Driver license" includes a driver license, an intermediate driver license, a temporary driver license, or a temporary intermediate driver license; and

(B) "Foreign country" means a country or political subdivision of a country other than the United States.

(j) Notwithstanding any other law to the contrary, the department shall permit any student enrolled in a state-approved cooperative driver testing program who is seeking an exemption from the Class D knowledge or skills examinations to present the third-party driver examiner testing certification form required for the exemption to the department at any driver license testing station within one (1) year of satisfactory completion of a Class D driver education and training course.

(k) The commissioner of safety is authorized to promulgate rules and regulations to effectuate the purposes of this section. All rules and regulations shall be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

55-50-331. Examination for, and issuance, renewal and contents of, licenses — 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 color 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 plastic laminated driver license issued by the department shall not display an applicant's social security number unless the applicant specifically requests in writing that the number be displayed on the license.

(3) The font size of the date of birth information on the plastic laminated driver license issued by the department shall be the same size as that of the driver license number. The date of birth shall be in red.

(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.

55-50-334. Licenses of persons under or attaining twenty-one. [Contingent amendment. See second version of section and Compiler's Notes.]

(a) If the licensee is less than twenty-one (21) years of age, the license shall bear the words and numbers "Under 21 Driver License," in addition to other secure features identifying the licensee as being under twenty-one (21) years of age.

(b) Upon attaining the age of twenty-one (21) years, any licensee may obtain a license without the letters, words and numbers required above by paying the fee for a duplicate license. However, no person shall be required to obtain the duplicate license, until the license expires.

55-50-334. Licenses of persons under or attaining twenty-one. [Contingent amendment. See first version of section and Compiler's Notes.]

(a) If the licensee is less than twenty-one (21) years of age, the license shall:

(1) Bear the language "Under 21 Driver License";

(2) Be printed in a vertical or portrait format; and

(3) Contain other secure features identifying the licensee as being under twenty-one (21) years of age.

(b) Upon attaining the age of twenty-one (21) years, any licensee may obtain a license printed in a horizontal or landscape format without the language required under subdivision (a)(1) by paying the fee for a duplicate license. However, no person shall be required to obtain the duplicate license, until the license expires.

55-50-354. Language or symbol on driver license or photo identification card reflecting military service.

(a) When the department issues or renews a driver license or photo identification card to an honorably discharged veteran, the driver license or

photo identification card shall have language or a symbol designed by the department of veterans services, in consultation with the department of safety, that appropriately reflects the driver's military service. The language or symbol shall be displayed prominently on the license.

(b) Tennessee veterans who elect to have language or a symbol indicating their military service on their driver license at the time of renewal or reissue shall pay the required license or photo identification card fee, check a box on the application stating they are a veteran, and provide a certified copy of:

(1) The applicant's certificate of release or discharge, department of defense form 214 (DD 214), showing dates of service and that the applicant received an honorable discharge; or

(2) The applicant's department of defense form DD form 2 (Retired) identification.

56-1-109. License of person in default on student loans. [Effective until January 1, 2019. See the version effective on January 1, 2019.]

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

(1) "Guarantee agency" means a guarantor of student loans that has an agreement with the United States secretary of education;

(2) "License" means a license, certification, registration, permit, approval or other similar document issued to an individual evidencing admission to or granting authority to engage in a profession, trade, occupation, business, or industry;

(3) "Licensing authority" means the department or any division, board, commission, committee, agency or other governmental entity under the authority of the department or attached to a division of the department that has been established by statute or regulation to oversee the issuance and regulation of any license; and

(4) "TSAC" means the Tennessee student assistance corporation.

(b) Upon receiving a copy of a final order as provided in subsection (c) from TSAC or a guarantee agency, each licensing authority shall suspend, deny or revoke the license of any person who has defaulted on a repayment or service obligation under any federal family education loan program, the federal Higher Education Act of 1965 (20 U.S.C. § 1001 et seq.), a student loan guaranteed or administered by TSAC, or any other state or federal educational loan or service-conditional scholarship program.

(c)(1) Each licensing authority shall accept any determination of default from TSAC or a guarantee agency, after TSAC or the guarantee agency has afforded a debtor an opportunity to be heard in accordance with subdivision (c)(2); and the licensing authority shall rescind any disciplinary action and restore any license upon receiving notice from TSAC or the guarantee agency that the debtor has agreed to serve the debtor's obligation or is in compliance with an approved repayment plan.

(2)(A) Unless a debtor has made satisfactory arrangements according to the lender, TSAC or the guarantee agency, which may include administrative wage garnishment, voluntary payment arrangements, deferment or forbearance, then the debtor shall be regarded as delinquent or in default. If a debtor is delinquent or in default on a repayment or service obligation under a guaranteed student loan identified in subsection (b), or

the debtor has failed to enter into a payment plan, agreed to a service obligation or comply with a payment plan previously approved by TSAC or the guarantee agency, then TSAC or the guarantee agency shall issue to the debtor a notice of intent to file an order with the appropriate licensing authority to seek to suspend, deny or revoke the debtor's license. The notice shall:

(i) Be served upon the debtor personally or by certified mail with return receipt requested; and

(ii) State that the debtor's license shall be suspended, denied or revoked ninety (90) days after service unless within that time the debtor:

(a) Pays the entire debt stated in the notice;

(b) Enters into a payment plan or service obligation, or complies with a payment plan previously entered into and approved by TSAC or the guarantee agency;

(c) Requests and qualifies for deferment, forbearance or other satisfactory compliance; or

(d) Requests a hearing before TSAC or the guarantee agency.

(B) The hearing request by the debtor shall be made in writing and must be received by TSAC or the guarantee agency within twenty (20) days of the date the notice is served.

(C) TSAC or the guarantee agency, upon receipt of a request for a hearing from the debtor, shall schedule a hearing to determine whether a determination of delinquency or default which could result in suspension, denial or revocation of the debtor's license is appropriate. The debtor's license may not be suspended, denied or revoked until a determination is reached following the hearing. The issues that may be determined in the hearing are:

(i) The amount of the debt, if any;

(ii) Whether the debtor is delinquent or in default;

(iii) Whether the debtor:

(a) Has entered into a payment plan or service obligation approved by TSAC or the guarantee agency;

(b) Is willing to enter into a payment plan or service obligation approved by TSAC or the guarantee agency; or

(c) Is willing to comply with a payment plan or service obligation previously entered into and approved by TSAC or the guarantee agency; and

(iv) Whether the debtor is eligible for deferment, forbearance or other satisfactory compliance.

(D) If a debtor, without good cause, fails to respond to the notice of intent, fails to timely request a hearing, or fails to appear at a regularly scheduled hearing, the debtor's defenses, objections, or request for a payment plan or compliance with a payment plan may be determined to be without merit; and TSAC or the guarantee agency shall enter a final decision and order, requesting suspension, denial or revocation of the debtor's license, and further requesting the licensing authority to order the debtor to refrain from engaging in the licensed activity. TSAC or the guarantee agency shall send a copy of the order to the licensing authority and the debtor.

(E) The administrative hearings shall be conducted in accordance with rules and regulations adopted under the Uniform Administrative Proce-

dures Act, compiled in title 4, chapter 5.

(F)(i) When TSAC or the guarantee agency determines that the debt is paid in full or the debtor has entered into a payment plan, entered into a service obligation, is otherwise in satisfactory compliance or complied with a payment plan previously approved by TSAC or the guarantee agency, TSAC or the guarantee agency shall enter an order requesting that the licensing authority terminate the order suspending, denying or revoking the license. TSAC or the guarantee agency shall send a copy of the order to the licensing authority and the debtor. Notwithstanding any other law, rule or regulation to the contrary, when the license is reinstated, the licensing authority shall not impose a reinstatement fee that exceeds fifty dollars ($50.00).

(ii) Entry of an order seeking to terminate suspension, denial or revocation of a license does not limit the ability of TSAC or the guarantee agency to issue a new order which seeks to suspend, deny or revoke the license of the same debtor in the event of another delinquency or default.

(G) TSAC is authorized to promulgate necessary rules and regulations to effectuate the purposes of this subsection (c). All such rules and regulations shall be promulgated in accordance with the Uniform Administrative Procedures Act.

(d) The commissioner is authorized to promulgate rules and regulations to effectuate the purposes of this section. All such rules and regulations shall be promulgated in accordance with the Uniform Administrative Procedures Act.

56-1-109. License of person in default on student loans. [Effective on January 1, 2019. See the version effective until January 1, 2019.]

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

(1) "Guarantee agency" means a guarantor of student loans that has an agreement with the United States secretary of education;

(2) "License" means a license, certification, registration, permit, approval or other similar document issued to an individual evidencing admission to or granting authority to engage in a profession, trade, occupation, business, or industry;

(3) "Licensing authority" means the department or any division, board, commission, committee, agency or other governmental entity under the authority of the department or attached to a division of the department that has been established by statute or regulation to oversee the issuance and regulation of any license; and

(4) "TSAC" means the Tennessee student assistance corporation.

(b)(1) Upon receiving a copy of a final order as provided in subsection (c) from TSAC or a guarantee agency, each licensing authority shall suspend, deny or revoke the license of any person who has defaulted on a repayment or service obligation under any federal family education loan program, the federal Higher Education Act of 1965 (20 U.S.C. § 1001 et seq.), a student loan guaranteed or administered by TSAC, or any other state or federal educational loan or service-conditional scholarship program.

(2) Notwithstanding subdivision (b)(1), a licensing authority may elect not to suspend, deny, or revoke the license of a person if the default or delinquency

is the result of a medical hardship that prevented the person from working in the person's licensed field and the medical hardship significantly contributed to the default or delinquency.

(c)(1) Each licensing authority shall accept any determination of default from TSAC or a guarantee agency, after TSAC or the guarantee agency has afforded a debtor an opportunity to be heard in accordance with subdivision (c)(2); and the licensing authority shall rescind any disciplinary action and restore any license upon receiving notice from TSAC or the guarantee agency that the debtor has agreed to serve the debtor's obligation or is in compliance with an approved repayment plan.

(2)(A) Unless a debtor has made satisfactory arrangements according to the lender, TSAC or the guarantee agency, which may include administrative wage garnishment, voluntary payment arrangements, deferment or forbearance, then the debtor shall be regarded as delinquent or in default. If a debtor is delinquent or in default on a repayment or service obligation under a guaranteed student loan identified in subsection (b), or the debtor has failed to enter into a payment plan, agreed to a service obligation or comply with a payment plan previously approved by TSAC or the guarantee agency, then TSAC or the guarantee agency shall issue to the debtor a notice of intent to file an order with the appropriate licensing authority to seek to suspend, deny or revoke the debtor's license. The notice shall:

(i) Be served upon the debtor personally or by certified mail with return receipt requested; and

(ii) State that the debtor's license shall be suspended, denied or revoked ninety (90) days after service unless within that time the debtor:

***(a)** Pays the entire debt stated in the notice;*

***(b)** Enters into a payment plan or service obligation, or complies with a payment plan previously entered into and approved by TSAC or the guarantee agency;*

***(c)** Requests and qualifies for deferment, forbearance or other satisfactory compliance; or*

***(d)** Requests a hearing before TSAC or the guarantee agency.*

(B) The hearing request by the debtor shall be made in writing and must be received by TSAC or the guarantee agency within twenty (20) days of the date the notice is served.

(C) TSAC or the guarantee agency, upon receipt of a request for a hearing from the debtor, shall schedule a hearing to determine whether a determination of delinquency or default which could result in suspension, denial or revocation of the debtor's license is appropriate. The debtor's license may not be suspended, denied or revoked until a determination is reached following the hearing. The issues that may be determined in the hearing are:

(i) The amount of the debt, if any;

(ii) Whether the debtor is delinquent or in default;

(iii) Whether the debtor:

***(a)** Has entered into a payment plan or service obligation approved by TSAC or the guarantee agency;*

***(b)** Is willing to enter into a payment plan or service obligation approved by TSAC or the guarantee agency; or*

***(c)** Is willing to comply with a payment plan or service obligation previously entered into and approved by TSAC or the guarantee*

agency;

(iv) Whether the debtor is eligible for deferment, forbearance or other satisfactory compliance; and

(v) Whether the debtor's default or delinquency is the result of a medical hardship that prevented the debtor from working in the debtor's licensed field and the medical hardship significantly contributed to the default or delinquency.

(D) If a debtor, without good cause, fails to respond to the notice of intent, fails to timely request a hearing, or fails to appear at a regularly scheduled hearing, the debtor's defenses, objections, or request for a payment plan or compliance with a payment plan may be determined to be without merit; and TSAC or the guarantee agency shall enter a final decision and order, requesting suspension, denial or revocation of the debtor's license, and further requesting the licensing authority to order the debtor to refrain from engaging in the licensed activity. TSAC or the guarantee agency shall send a copy of the order to the licensing authority and the debtor.

(E) The administrative hearings shall be conducted in accordance with rules and regulations adopted under the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(F)(i) When TSAC or the guarantee agency determines that the debt is paid in full or the debtor has entered into a payment plan, entered into a service obligation, is otherwise in satisfactory compliance or complied with a payment plan previously approved by TSAC or the guarantee agency, TSAC or the guarantee agency shall enter an order requesting that the licensing authority terminate the order suspending, denying or revoking the license. TSAC or the guarantee agency shall send a copy of the order to the licensing authority and the debtor. Notwithstanding any other law, rule or regulation to the contrary, when the license is reinstated, the licensing authority shall not impose a reinstatement fee that exceeds fifty dollars ($50.00).

(ii) Entry of an order seeking to terminate suspension, denial or revocation of a license does not limit the ability of TSAC or the guarantee agency to issue a new order which seeks to suspend, deny or revoke the license of the same debtor in the event of another delinquency or default.

(G) TSAC is authorized to promulgate necessary rules and regulations to effectuate the purposes of this subsection (c). All such rules and regulations shall be promulgated in accordance with the Uniform Administrative Procedures Act.

(d) The commissioner is authorized to promulgate rules and regulations to effectuate the purposes of this section. All such rules and regulations shall be promulgated in accordance with the Uniform Administrative Procedures Act.

56-1-110. Claims to be brought in chancery court of Davidson county.

(a) Claims challenging liability imposed by this title must be brought in the chancery court of Davidson County pursuant to the procedures set out in title 67, chapter 1, part 9.

(b)(1) The commissioner may, against any person, agency, or company licensed, registered, or permitted by or operating under a certificate of authority issued by the commissioner, or acting in an unlawful capacity that brings such person, agency, or company under the jurisdiction of the

commissioner, assess the actual and reasonable costs of the investigation, prosecution, and hearing of any disciplinary action held in accordance with the contested case provisions of the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, part 3, in which sanctions of any kind are imposed on that person, agency, or company. These costs may include, but are not limited to, those incurred and assessed for the time of the prosecuting attorneys, investigators, expert witnesses, administrative judges, and any other persons involved in the investigation, prosecution, and hearing of the action.

(2) The commissioner may promulgate rules establishing a schedule of costs that may be assessed pursuant to this section. All rules must be promulgated in accordance with the Uniform Administrative Procedures Act.

(3)(A) All costs assessed pursuant to this section become final thirty (30) days after the date of a final order of assessment is served.

(B) If the individual or entity disciplined fails to pay an assessment when it becomes final, the commissioner may apply to the chancery court of Davidson County, which shall have jurisdiction over recovery of the costs, for a judgment and seek execution of the judgment.

56-1-312. Default on student loans by members of regulated professions. [Effective until January 1, 2019. See the version effective on January 1, 2019.]

(a) Upon receiving a copy of a final order as provided in subsection (b) from the Tennessee student assistance corporation (TSAC), or a guarantee agency that has an agreement with the United States secretary of education, referred to as "guarantee agency" in this section, each board, commission or agency, referred to as the "licensing authority" in this section, attached to the division of regulatory boards shall suspend, deny or revoke the license of, or take other appropriate disciplinary action against, any person who has defaulted on a repayment or service obligation under any federal family education loan program, the federal Higher Education Act of 1965 (20 U.S.C. § 1001 et seq.), as amended, a student loan guaranteed or administered by TSAC, or any other state or federal educational loan or service-conditional scholarship program.

(b)(1) Each board, commission, committee, agency or other governmental entity created pursuant to this title shall accept any determination of default from TSAC or a guarantee agency, after TSAC or the guarantee agency has afforded a debtor an opportunity to be heard in accordance with subdivision (b)(2); and the board, commission, committee, agency or other governmental entity shall rescind any disciplinary action and restore any license or certificate upon receiving notice from the corporation or guarantee agency that the person has agreed to serve the person's obligation or is in compliance with an approved repayment plan.

(2)(A) Unless a debtor has made satisfactory arrangements according to the lender, TSAC or the guarantee agency, which may include administrative wage garnishment, voluntary payment arrangements, or deferment/forbearance, then the debtor shall be regarded as delinquent or in default. If a debtor is delinquent or in default on a repayment or service obligation under a guaranteed student loan identified in subsection (a), or the debtor has failed to enter into a payment plan or comply with a

payment plan previously approved by TSAC or the guarantee agency, then TSAC or the guarantee agency shall issue to the debtor a notice of intent to file an order with the appropriate licensing authority to suspend, deny or revoke the debtor's license or certificate. The notice must:

(i) Be served upon the debtor personally or by certified mail with return receipt requested; and

(ii) State that the debtor's license or certificate will be suspended, denied or revoked ninety (90) days after service unless within that time the debtor:

(a) Pays the entire debt stated in the notice;

(b) Enters into a payment plan or complies with a payment plan previously entered into and approved by TSAC or the guarantee agency; or

(c) Requests a hearing before TSAC or the guarantee agency.

(B) The hearing request by the debtor shall be made in writing and must be received by TSAC or the guarantee agency within twenty (20) days of the date the notice is served.

(C) TSAC or the guarantee agency, upon receipt of a request for a hearing from the debtor, shall schedule a hearing to determine whether suspension, denial or revocation of the debtor's license or certificate is appropriate. The debtor's license or certificate may not be suspended, denied or revoked until a determination is reached following the hearing. The only issues that may be determined in the hearing are:

(i) The amount of the debt, if any;

(ii) Whether the debtor is delinquent or in default; and

(iii) Whether the debtor has entered into, or the debtor is willing to enter into, a payment plan or to comply with a payment plan previously entered into and approved by TSAC or the guarantee agency.

(D) If a debtor fails to respond to the notice of intent, fails to timely request a hearing, or fails to appear at a regularly scheduled hearing, the debtor's defenses, objections, or request for a payment plan or compliance with a payment plan may be determined to be without merit; and TSAC or the guarantee agency shall enter a final decision and order, requesting suspension, denial or revocation of the debtor's license or certificate, and further requesting the licensing authority to order the debtor to refrain from engaging in the licensed activity or activity for which a certificate has been issued. TSAC or the guarantee agency shall send a copy of the order to the licensing authority and the debtor.

(E) The administrative hearings shall be conducted in the same manner as those conducted pursuant to §§ 36-5-703 and 36-5-704.

(F)(i) When TSAC or the guarantee agency determines that the debt is paid in full or the debtor has entered into a payment plan or complied with a payment plan previously approved by TSAC or the guarantee agency, TSAC or the guarantee agency shall terminate the order suspending, denying or revoking the license or certificate. TSAC or the guarantee agency shall send a copy of the order terminating the suspension, denial or revocation to the licensing authority and the debtor. Notwithstanding any other law, rule or regulation to the contrary, when the license or certificate is reinstated, the licensing authority shall not impose a reinstatement fee that exceeds fifty dollars ($50.00).

(ii) Entry of an order terminating suspension, denial or revocation of a license or certificate does not limit the ability of TSAC or the guarantee agency to issue a new order suspending, denying or revoking the license or certificate of the same debtor in the event of another delinquency or default.

(G) TSAC is authorized to promulgate necessary rules and regulations in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, to implement this subsection (b).

(c) Each board, commission or agency attached to the division of regulatory boards shall promulgate rules and regulations to effectuate the purposes of this section.

56-1-312. Default on student loans by members of regulated professions. [Effective on January 1, 2019. See the version effective until January 1, 2019.]

(a)(1) Upon receiving a copy of a final order as provided in subsection (b) from the Tennessee student assistance corporation (TSAC), or a guarantee agency that has an agreement with the United States secretary of education, referred to as "guarantee agency" in this section, each board, commission or agency, referred to as the "licensing authority" in this section, attached to the division of regulatory boards shall suspend, deny or revoke the license of, or take other appropriate disciplinary action against, any person who has defaulted on a repayment or service obligation under any federal family education loan program, the federal Higher Education Act of 1965 (20 U.S.C. § 1001 et seq.), as amended, a student loan guaranteed or administered by TSAC, or any other state or federal educational loan or service-conditional scholarship program.

(2) Notwithstanding subdivision (a)(1), a licensing authority may elect not to suspend, deny, or revoke the license of a person if the default or delinquency is the result of a medical hardship that prevented the person from working in the person's licensed field and the medical hardship significantly contributed to the default or delinquency.

(b)(1) Each board, commission, committee, agency or other governmental entity created pursuant to this title shall accept any determination of default from TSAC or a guarantee agency, after TSAC or the guarantee agency has afforded a debtor an opportunity to be heard in accordance with subdivision (b)(2); and the board, commission, committee, agency or other governmental entity shall rescind any disciplinary action and restore any license or certificate upon receiving notice from the corporation or guarantee agency that the person has agreed to serve the person's obligation or is in compliance with an approved repayment plan.

(2)(A) Unless a debtor has made satisfactory arrangements according to the lender, TSAC or the guarantee agency, which may include administrative wage garnishment, voluntary payment arrangements, or deferment/forbearance, then the debtor shall be regarded as delinquent or in default. If a debtor is delinquent or in default on a repayment or service obligation under a guaranteed student loan identified in subsection (a), or the debtor has failed to enter into a payment plan or comply with a payment plan previously approved by TSAC or the guarantee agency, then TSAC or the guarantee agency shall issue to the debtor a notice of intent to file an order with the appropriate licensing authority to suspend, deny or revoke the

debtor's license or certificate. The notice must:

(i) Be served upon the debtor personally or by certified mail with return receipt requested; and

(ii) State that the debtor's license or certificate will be suspended, denied or revoked ninety (90) days after service unless within that time the debtor:

***(a)** Pays the entire debt stated in the notice;*

***(b)** Enters into a payment plan or complies with a payment plan previously entered into and approved by TSAC or the guarantee agency; or*

***(c)** Requests a hearing before TSAC or the guarantee agency.*

(B) The hearing request by the debtor shall be made in writing and must be received by TSAC or the guarantee agency within twenty (20) days of the date the notice is served.

(C) TSAC or the guarantee agency, upon receipt of a request for a hearing from the debtor, shall schedule a hearing to determine whether suspension, denial or revocation of the debtor's license or certificate is appropriate. The debtor's license or certificate may not be suspended, denied or revoked until a determination is reached following the hearing. The only issues that may be determined in the hearing are:

(i) The amount of the debt, if any;

(ii) Whether the debtor is delinquent or in default;

(iii) Whether the debtor has entered into, or the debtor is willing to enter into, a payment plan or to comply with a payment plan previously entered into and approved by TSAC or the guarantee agency; and

(iv) Whether the debtor's default or delinquency is the result of a medical hardship that prevented the debtor from working in the debtor's licensed field and the medical hardship significantly contributed to the default or delinquency.

(D) If a debtor fails to respond to the notice of intent, fails to timely request a hearing, or fails to appear at a regularly scheduled hearing, the debtor's defenses, objections, or request for a payment plan or compliance with a payment plan may be determined to be without merit; and TSAC or the guarantee agency shall enter a final decision and order, requesting suspension, denial or revocation of the debtor's license or certificate, and further requesting the licensing authority to order the debtor to refrain from engaging in the licensed activity or activity for which a certificate has been issued. TSAC or the guarantee agency shall send a copy of the order to the licensing authority and the debtor.

(E) The administrative hearings shall be conducted in the same manner as those conducted pursuant to §§ 36-5-703 and 36-5-704.

(F)(i) When TSAC or the guarantee agency determines that the debt is paid in full or the debtor has entered into a payment plan or complied with a payment plan previously approved by TSAC or the guarantee agency, TSAC or the guarantee agency shall terminate the order suspending, denying or revoking the license or certificate. TSAC or the guarantee agency shall send a copy of the order terminating the suspension, denial or revocation to the licensing authority and the debtor. Notwithstanding any other law, rule or regulation to the contrary, when the license or certificate is reinstated, the licensing authority shall not impose a reinstatement fee that exceeds fifty dollars ($50.00).

(ii) Entry of an order terminating suspension, denial or revocation of a license or certificate does not limit the ability of TSAC or the guarantee agency to issue a new order suspending, denying or revoking the license or certificate of the same debtor in the event of another delinquency or default.

(G) TSAC is authorized to promulgate necessary rules and regulations in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, to implement this subsection (b).

(c) Each board, commission or agency attached to the division of regulatory boards shall promulgate rules and regulations to effectuate the purposes of this section.

56-1-701. [Repealed.]

56-1-702. [Repealed.]

56-2-125. Establishment and maintenance of an all payer claims database — Establishment of Tennessee health information committee.

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

(1) "All payer claims database" means a database comprised of health insurance issuer and group health plan claims information that excludes the data elements in 45 CFR 164.514(e)(2);

(2) "Commissioner" means the commissioner of commerce and insurance;

(3) "Department" means the department of commerce and insurance;

(4) "Group health plan" means an employee welfare benefit plan, as defined in § 3(1) of the Employee Retirement Income Security Act of 1974 (ERISA) (29 U.S.C. § 1002(1)), to the extent that the plan provides medical care to employees or their dependents, as defined under the terms of the plan, or an administrator of the plan. For purposes of this section, "group health plan" shall not mean any plan that is offered through a health insurance issuer;

(5) "Health insurance coverage" means health insurance coverage as defined in § 56-7-2902, as well as medicare supplemental health insurance; and

(6) "Health insurance issuer" means an entity subject to the insurance laws of this state, or subject to the jurisdiction of the commissioner, that contracts or offers to contract to provide health insurance coverage, including, but not limited to, an insurance company, a health maintenance organization and a nonprofit hospital and medical service corporation. "Health insurance issuer" also means a pharmacy benefits manager, a third party administrator and an entity described in § 56-2-121.

(b)(1) The commissioner shall establish and maintain an all payer claims database to enable the commissioner of finance and administration to carry out the following duties:

(A) Improving the accessibility, adequacy and affordability of patient health care and health care coverage;

(B) Identifying health and health care needs and informing health and health care policy;

(C) Determining the capacity and distribution of existing health care

resources;

(D) Evaluating the effectiveness of intervention programs on improving patient outcomes;

(E) Reviewing costs among various treatment settings, providers and approaches; and

(F) Providing publicly available information on health care providers' quality of care.

(2) Nothing in this section shall preclude a health insurance issuer from providing information on health care providers' quality of care in accordance with § 56-32-130(e).

(c) [Deleted by 2018 amendment.]

(d)(1) As required by HIPAA, the all payer claims database shall not publicly disclose any individually identifiable health information as defined in 45 CFR 160.103. Use of the all payer claims database shall be subject to restrictions required by HIPAA and other applicable privacy laws and policies. The all payer claims database shall be accessed only by staff or a designated entity authorized in writing by the commissioner of finance and administration to perform the analyses contemplated by this section. The commissioner shall develop procedures and safeguards to protect the integrity and confidentiality of any data contained in the all payer claims database.

(2)(A)(i) The all payer claims database, summaries, source, or draft information used to construct or populate the all payer claims database, patient level claims data, reports derived from the all payer claims database, and other information submitted under this section, whether in electronic or paper form, shall not be considered a public record and shall not be open for inspection by members of the public under § 10-7-503(a)(1). The information contained in the all payer claims database shall be considered confidential and not subject to subpoena.

(ii) The commissioner may promulgate rules to authorize the public release of reports derived from the information. Any release of reports shall not result in such information losing its confidentiality or cause it to be admissible, except in administrative proceedings authorized under the rules adopted by the commissioner.

(B) The commissioner shall, through memoranda of understanding, allow the use of the all payer claims database by the department of finance and administration, the department of health, the department of mental health and substance abuse services, the department of intellectual and developmental disabilities, and other departments of state government for the purposes listed in subdivision (b)(1).

(C) Except for officials of the state or those officials' designees as permitted by subdivision (d)(1), nothing in this section shall be construed as permitting access to or discovery of the source or draft information used to construct or populate the all payer claims database.

(e) The all payer claims database shall contain unique health care provider identifiers that may be used in public reports; provided, however, that no information that could reveal the identity of any patient from the all payer claims database shall be made available to the public. To ensure that individual patients are not identified, the following data shall not be included in any transmission by a group health plan or health insurance issuer to the state or designated entity for the all payer claims database or in any source or

draft information used to construct or populate the all payer claims database:

(1) Patient names;

(2) Patient street addresses;

(3) All elements of patient birth dates, except year of birth;

(4) Patient telephone numbers;

(5) Patient facsimile numbers;

(6) Patient electronic mail addresses;

(7) Patient social security numbers;

(8) Medical record numbers;

(9) Health plan beneficiary numbers;

(10) Patient account numbers;

(11) Patient certificate/license numbers;

(12) Vehicle identifiers and serial numbers including license plate numbers;

(13) Device identifiers and serial numbers;

(14) Web universal resource locators (URLs);

(15) Internet protocol (IP) address numbers;

(16) Biometric identifiers including fingerprints, voiceprints, and genetic code;

(17) Full-face photographic images and any comparable images; or

(18) Any other unique patient identifying number, characteristic or code, except encrypted index numbers assigned prior to the transmission by group health plans or health insurance issuers to the state or designated entity for the purpose of linking procedures by patient; provided, that a patient's identity cannot be known from the encrypted index number.

(f)(1)(A) No later than January 1, 2010, and every month thereafter, all group health plans and health insurance issuers shall provide electronic health insurance claims data for state residents to the commissioner or a designated entity authorized by the commissioner, in accordance with standards and procedures recommended by the Tennessee health information committee pursuant to subdivision (c)(2) and adopted by the commissioner by rule.

(B) All group health plans and health insurance issuers shall provide additional information as the Tennessee health information committee recommends and the commissioner subsequently establishes by rule for the purpose of creating and maintaining an all payer claims database.

(C) The Tennessee health information committee and the commissioner shall strive for standards and procedures that are the least burdensome for data submitters.

(2) The collection, storage and release of health and health care data and statistical information that is subject to the federal requirements of HIPAA shall be governed by the rules adopted in 45 CFR parts 160 and 164.

(3) All group health plans and health insurance issuers that collect the health employer data and information set (HEDIS) shall annually submit the HEDIS information to the commissioner in a form and in a manner prescribed by the National Committee for Quality Assurance (NCQA).

(4) If any group health plan or health insurance issuer fails to submit required data to the commissioner on a timely basis, the commissioner may impose a civil penalty of up to one hundred dollars ($100) for each day of delay.

(g) The commissioner, in the commissioner's discretion, may allow some

group health plans and health insurance issuers to submit data on a quarterly basis. The commissioner may also establish by rule exceptions to the reporting requirements of this section for entities based upon an entity's size or amount of claims or other relevant factors deemed appropriate.

(h)(1) The commissioner may, subject to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, promulgate rules and regulations for purposes of implementing this section. The commissioner is authorized to promulgate the initial rules as emergency rules pursuant to the Uniform Administrative Procedures Act prior to January 1, 2010, for the purpose of creating the all payer claims database.

(2) The commissioner of finance and administration may, subject to the Uniform Administrative Procedures Act, promulgate rules and regulations concerning the operation of the all payer claims database and the distribution and use of information maintained or created thereby. The commissioner of finance and administration is authorized to promulgate the initial rules as emergency rules pursuant to the Uniform Administrative Procedures Act prior to January 1, 2010, for the purpose of creating the all payer claims database.

56-2-126. Service contracts not to be construed as business of insurance.

(a) The marketing, sale, offering for sale, issuance, making, proposing to make and administration of a service contract shall not be construed to be the business of insurance and shall be exempt from regulation as insurance pursuant to this title.

(b)(1) For purposes of this section, "service contract" means a contract or agreement for a separately stated consideration for a specific duration to perform the service, repair, replacement or maintenance of property or indemnification for service, repair, replacement or maintenance, for the operational or structural failure due to a defect in materials, workmanship, or normal wear and tear, with or without additional provisions for incidental payment of indemnity under limited circumstances, including, but not limited to, towing, rental, road hazard and emergency road service. "Service contract" includes motor vehicle extended service contracts and agreements. Service contracts may provide for the service, repair, replacement, or maintenance of property for damage resulting from power surges and accidental damage from handling.

(2)(A) For the purposes of this section, "service contract" also means a contract or agreement that provides one (1) or more of the following:

(i) The repair or replacement of tires or wheels on a motor vehicle damaged as a result of coming into contact with road hazards;

(ii) The removal of dents, dings, or creases on a motor vehicle that can be repaired using the process of paintless dent removal without affecting the existing paint finish and without replacing vehicle body panels, sanding, bonding, or painting;

(iii) The repair of chips or cracks in, or the replacement of, motor vehicle windshields as a result of damage caused by road hazards; or

(iv) The replacement of a motor vehicle key or key-fob in the event that the key or key-fob becomes inoperable or is lost or stolen.

(B) For purposes of subdivision (b)(2)(A), "road hazard" means a hazard that is encountered while driving a motor vehicle, which may include potholes, rocks, wood debris, metal parts, glass, plastic, curbs, or composite scraps.

(c) A contract excluded from the definition of a "pre-need funeral contract" pursuant to § 62-5-403(9)(C) is not a contract of insurance within the meaning of this title.

56-2-208. Credit for reinsurance — Reduction from liability for reinsurance.

(a) The purpose of §§ 56-2-207, 56-2-208, and 56-2-209 is to protect the interest of the insureds, claimants, ceding insurers, assuming insurers and the public generally. It is the intent of the general assembly to ensure adequate regulation of insurers and reinsurers and adequate protection for those to whom insurers and reinsurers owe obligations. Upon the insolvency of a non-United States insurer or reinsurer that provides security to fund its United States obligations in accordance with §§ 56-2-207, 56-2-208 and 56-2-209, the assets representing the security shall be maintained in the United States and claims shall be filed with and valued by the state insurance commissioner with regulatory oversight, and the assets shall be distributed, in accordance with the insurance laws of the state in which the trust is domiciled that are applicable to the liquidation of domestic United States insurance companies. The general assembly declares that the matters contained in §§ 56-2-207, 56-2-208, and 56-2-209 are fundamental to the business of insurance in accordance with 15 U.S.C. §§ 1011 and 1012.

(b)(1)(A) Credit for reinsurance shall be allowed a domestic ceding insurer as either an asset or a reduction from liability on account of reinsurance ceded only when the insurer meets one (1) or more of the requirements set out in subdivisions (b)(2)-(7). However, the commissioner may adopt, by rule pursuant to § 56-2-209(g), specific additional requirements relating to or setting forth:

(i) The valuation of assets or reserve credits;

(ii) The amount and forms of security supporting reinsurance arrangements described in § 56-2-209(g); and

(iii) The circumstances pursuant to which credit will be reduced or eliminated.

(B) Credit shall be allowed under subdivision (b)(2), (b)(3), or (b)(4) only in respect to cessions of those kinds or classes of business which the assuming insurer is licensed or otherwise permitted to write or assume in its state of domicile or, in the case of the United States branch of a non-United States assuming insurer, in the state through which it is entered and licensed to transact insurance or reinsurance. Credit shall be allowed under subdivision (b)(4) or (b)(5) only if the applicable requirements of subdivision (b)(8) have been satisfied.

(2) Credit shall be allowed when the reinsurance is ceded to an assuming insurer that is licensed to transact insurance or reinsurance in this state.

(3) Credit shall be allowed when the reinsurance is ceded to an assuming insurer that is accredited by the commissioner as a reinsurer in this state. In order to be eligible for accreditation, a reinsurer must:

(A) File with the commissioner evidence of its submission to this state's

jurisdiction;

(B) Submit to this state's authority to examine its books and records;

(C) Be licensed to transact insurance or reinsurance in at least one (1) state, or in the case of a United States branch of a non-United States assuming insurer, is entered through and licensed to transact insurance or reinsurance in at least one (1) state;

(D) File annually with the commissioner a copy of its annual statement filed with the insurance department of its state of domicile and a copy of its most recent audited financial statement; and

(E) Demonstrate to the satisfaction of the commissioner that it has adequate financial capacity to meet its reinsurance obligations and is otherwise qualified to assume reinsurance from domestic insurers. An assuming insurer is deemed to meet this requirement as of the time of its application if it maintains a surplus as regards policyholders in an amount that is not less than twenty million dollars ($20,000,000) and its accreditation has not been denied by the commissioner within ninety (90) days after submission of its application.

(4) Credit shall be allowed when the reinsurance is ceded to an assuming insurer that is domiciled and licensed in, or in the case of a United States branch of a non-United States assuming insurer, is entered through, a state that employs standards regarding credit for reinsurance substantially similar to those applicable under this title, and the assuming insurer or United States branch of a non-United States assuming insurer:

(A) Maintains a surplus as regards policyholders in an amount of not less than twenty million dollars ($20,000,000); provided, that the requirement in this subdivision (b)(4)(A) does not apply to reinsurance ceded and assumed pursuant to pooling arrangements among insurers in the same holding company system; and

(B) Submits to the authority of this state to examine its books and records.

(5)(A) Credit shall be allowed when the reinsurance is ceded to an assuming insurer that maintains a trust fund in a qualified United States financial institution, as defined in § 56-2-209(d), for the payment of the valid claims of its United States ceding insurers, their assigns and successors in interest. To enable the commissioner to determine the sufficiency of the trust fund, the assuming insurer shall report annually to the commissioner information substantially the same as that required to be reported on the National Association of Insurance Commissioners (NAIC) annual statement form by licensed insurers. The assuming insurer shall submit to an examination of its books and records by the commissioner and bear the expense of such examination.

(B) Credit for reinsurance shall not be granted under this subdivision (b)(5) unless the form of the trust and any amendments to the trust have been approved by:

(i) The commissioner of the state where the trust is domiciled; or

(ii) The commissioner of another state that, pursuant to the terms of the trust instrument, has accepted principal regulatory oversight of the trust.

(C) The following requirements apply to the following categories of assuming insurer:

(i) The trust fund for a single assuming insurer shall consist of funds in trust in an amount not less than the assuming insurer's liabilities

attributable to reinsurance ceded by United States ceding insurers and, in addition, the assuming insurer shall maintain a trusteed surplus of not less than twenty million dollars ($20,000,000), except as provided in subdivision (b)(5)(C)(ii);

(ii) At any time after the assuming insurer has permanently discontinued underwriting new business secured by the trust for at least three (3) full years, the commissioner with principal regulatory oversight of the trust may authorize a reduction in the required trusteed surplus, but only after a finding, based on an assessment of the risk, that the new required surplus level is adequate for the protection of United States ceding insurers, policyholders, and claimants in light of reasonably foreseeable adverse loss development. The risk assessment may involve an actuarial review, including an independent analysis of reserves and cash flows, and shall consider all material risk factors, including, when applicable, the lines of business involved, the stability of the incurred loss estimates and the effect of surplus requirements on the assuming insurer's liquidity or solvency. The minimum required trusteed surplus may not be reduced to an amount less than thirty percent (30%) of the assuming insurer's liabilities attributable to reinsurance ceded by the United States ceding insurers covered by the trust;

(iii)*(a)* In the case of a group including incorporated and individual unincorporated underwriters:

(1) For reinsurance ceded under reinsurance agreements with an inception, amendment or renewal date on or after January 1, 1993, the trust shall consist of a trusteed account in an amount not less than the respective underwriters' several liabilities attributable to business ceded by United States domiciled ceding insurers to any underwriter of the group;

(2) For reinsurance ceded under reinsurance agreements with an inception date on or before December 31, 1992, and not amended or renewed on or after that date, notwithstanding §§ 56-2-207, 56-2-208, and 56-2-209, the trust shall consist of a trusteed account in an amount not less than the respective underwriters' several insurance and reinsurance liabilities attributable to business written in the United States; and

(3) In addition to the trusts set out in this subdivision (b)(5)(C)(iii)(*a*)(*3*), the group shall maintain in trust a trusteed surplus of which one hundred million dollars ($100,000,000) shall be held jointly for the benefit of United States domiciled ceding insurers of any member of the group for all years of account; and

(b) The incorporated members of the group shall not be engaged in any business other than underwriting as a member of the group and shall be subject to the same level of regulation and solvency control by the group's domiciliary regulator as are the unincorporated members; and

(c) Within ninety (90) days after its financial statements are due to be filed with the group's domiciliary regulator, the group shall provide to the commissioner an annual certification by the group's domiciliary regulator of the solvency of each underwriter member; or if a certification is unavailable, financial statements, prepared by independent public accountants, of each underwriter member of the group; and

(iv) In the case of a group of incorporated insurers under common administration, the group shall:

(a) Have continuously transacted an insurance business outside the United States for at least three (3) years immediately prior to making application for accreditation;

(b) Maintain aggregate policyholders surplus of ten billion dollars ($10,000,000,000);

(c) Maintain a trust fund in an amount not less than the group's several liabilities attributable to business ceded by United States domiciled ceding insurers to any member of the group pursuant to reinsurance contracts issued in the name of the group;

(d) Maintain a joint trusteed surplus of which one hundred million dollars ($100,000,000) shall be held jointly for the benefit of United States domiciled ceding insurers of any member of the group as additional security for the liabilities; and

(e) Within ninety (90) days after its financial statements are due to be filed with the group's domiciliary regulator, make available to the commissioner an annual certification of each underwriter member's solvency by the member's domiciliary regulator and financial statements of each underwriter member of the group prepared by its independent public accountant.

(D) The form of the trust and any trust amendments also shall be filed with the commissioner of every state in which the ceding insurer beneficiaries of the trust are domiciled. The trust instrument shall provide that contested claims shall be valid and enforceable upon the final order of any court of competent jurisdiction in the United States. The trust shall vest legal title to its assets in its trustees for the benefit of the assuming insurer's United States ceding insurers, their assigns and successors in interest. The trust and the assuming insurer shall be subject to examination as determined by the commissioner.

(E) The trust shall remain in effect for as long as the assuming insurer has outstanding obligations due under the reinsurance agreements subject to the trust. No later than February 28 of each year, the trustee of the trust shall report to the commissioner in writing the balance of the trust and list the trust's investments at the preceding year end and shall certify the date of termination of the trust, if so planned, or certify that the trust will not expire prior to the following December 31.

(6)(A)(i) Credit shall be allowed when the reinsurance is ceded to an assuming insurer that has been certified by the commissioner as a reinsurer in this state and secures its obligations in accordance with the requirements of this subdivision (b)(6).

(ii) Any information submitted by an assuming insurer who is applying for certification as a reinsurer pursuant to subdivision (b)(6)(A)(i) and any information submitted to the commissioner pursuant to this section or any rule promulgated under this section by an assuming insurer who has been certified as a reinsurer pursuant to subdivision (b)(6)(A)(i) is confidential by law, is not open for inspection by members of the public under § 10-7-503 or § 56-1-602, is not subject to subpoena, and is not subject to discovery or admissible in evidence in any private civil action. However, the commissioner may use the documents, materials, or other information in the furtherance of any regulatory or legal

action brought as a part of the commissioner's official duties and may share the documents, materials, or other information in accordance with the procedures set forth in § 56-11-108(c)-(f).

(B) In order to be eligible for certification, the assuming insurer shall meet the following requirements:

(i) The assuming insurer must be domiciled and licensed to transact insurance or reinsurance in a qualified jurisdiction, as determined by the commissioner pursuant to subdivision (b)(6)(D);

(ii) The assuming insurer must maintain a minimum capital and surplus, or its equivalent, in an amount to be determined by the commissioner pursuant to rules promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5;

(iii) The assuming insurer must maintain financial strength ratings from two (2) or more rating agencies deemed acceptable by the commissioner pursuant to rules promulgated in accordance with the Uniform Administrative Procedures Act;

(iv) The assuming insurer must agree to submit to the jurisdiction of this state, appoint the commissioner as its agent for service of process in this state, and agree to provide security for one hundred percent (100%) of the assuming insurer's liabilities attributable to reinsurance ceded by United States ceding insurers if it resists enforcement of a final United States judgment;

(v) The assuming insurer must agree to meet applicable information filing requirements as determined by the commissioner, both with respect to an initial application for certification and on an ongoing basis; and

(vi) The assuming insurer must satisfy any other requirements for certification deemed relevant by the commissioner.

(C) An association including incorporated and individual unincorporated underwriters may be a certified reinsurer. In order to be eligible for certification, in addition to satisfying requirements of subdivision (b)(6)(B):

(i) The association shall satisfy its minimum capital and surplus requirements through the capital and surplus equivalents (net of liabilities) of the association and its members, which shall include a joint central fund that may be applied to any unsatisfied obligation of the association or any of its members, in an amount determined by the commissioner to provide adequate protection;

(ii) The incorporated members of the association shall not be engaged in any business other than the underwriting as a member of the association and shall be subject to the same level of regulation and solvency control by the association's domiciliary regulator as are the unincorporated members; and

(iii) Within ninety (90) days after its financial statements are due to be filed with the association's domiciliary regulator, the association shall provide to the commissioner an annual certification by the association's domiciliary regulator of the solvency of each underwriter member; or if a certification is unavailable, financial statements, prepared by independent public accountants, of each underwriter member of the association.

(D)(i) The commissioner shall create and publish a list of qualified jurisdictions, under which an assuming insurer licensed and domiciled in such jurisdiction is eligible to be considered for certification by the commissioner as a certified reinsurer.

(ii) In order to determine whether the domiciliary jurisdiction of a non-United States assuming insurer is eligible to be recognized as a qualified jurisdiction, the commissioner shall evaluate the appropriateness and effectiveness of the reinsurance supervisory system of the jurisdiction, both initially and on an ongoing basis, and consider the rights, benefits and the extent of reciprocal recognition afforded by the non-United States jurisdiction to reinsurers licensed and domiciled in the United States. A qualified jurisdiction must agree to share information and cooperate with the commissioner with respect to all certified reinsurers domiciled within that jurisdiction. A jurisdiction may not be recognized as a qualified jurisdiction if the commissioner has determined that the jurisdiction does not adequately and promptly enforce final United States judgments and arbitration awards. Additional factors may be considered at the commissioner's discretion.

(iii) A list of qualified jurisdictions shall be published through the NAIC committee process. The commissioner shall consider this list in determining qualified jurisdictions. If the commissioner approves a jurisdiction as qualified that does not appear on the list of qualified jurisdictions, the commissioner shall provide thoroughly documented justification in accordance with the criteria established in rules promulgated in accordance with the Uniform Administrative Procedures Act.

(iv) United States jurisdictions that meet the requirement for accreditation under the NAIC financial standards and accreditation program shall be recognized as qualified jurisdictions.

(v) If a certified reinsurer's domiciliary jurisdiction ceases to be a qualified jurisdiction, the commissioner has the discretion to suspend the reinsurer's certification indefinitely, in lieu of revocation.

(E) The commissioner shall assign a rating to each certified reinsurer, giving due consideration to the financial strength ratings that have been assigned by rating agencies deemed acceptable to the commissioner pursuant to rules promulgated in accordance with the Uniform Administrative Procedures Act. The commissioner shall publish a list of all certified reinsurers and their ratings.

(F)(i) A certified reinsurer shall secure obligations assumed from the United States ceding insurers under this subdivision (b)(6) at a level consistent with its ratings, as specified in rules promulgated by the commissioner in accordance with the Uniform Administrative Procedures Act.

(ii) In order for a domestic ceding insurer to qualify for full financial statement credit for reinsurance ceded to a certified reinsurer, the certified reinsurer shall maintain security in a form acceptable to the commissioner and consistent with § 56-2-209, or in a multi-beneficiary trust in accordance with subdivision (b)(5), except as otherwise provided in this subdivision (b)(6).

(iii) If a certified reinsurer maintains a trust to fully secure its obligations subject to subdivision (b)(5), and chooses to secure its obligations incurred as a certified reinsurer in the form of a multi-

beneficiary trust, the certified reinsurer shall maintain separate trust accounts for its obligations incurred under reinsurance agreements issued or renewed as a certified reinsurer with reduced security as permitted by this subdivision (b)(6) or comparable laws of other United States jurisdictions and for its obligations subject to subdivision (b)(5). It shall be a condition to grant the certification under this subdivision (b)(6) that the certified reinsurer shall have bound itself, by the language of the trust and agreement with the commissioner with principal regulatory oversight of each such trust account, to fund, upon termination of any such trust account, out of the remaining surplus of such trust any deficiency of any other such trust account.

(iv) The minimum trusteed surplus requirements provided in subdivision (b)(5) are not applicable to a multi-beneficiary trust maintained by a certified reinsurer for the purpose of securing obligations incurred under this subdivision (b)(6), except that such trust shall maintain a minimum trusteed surplus of ten million dollars ($10,000,000).

(v) With respect to obligations incurred by a certified reinsurer under this subdivision (b)(6), if the security is insufficient, the commissioner shall reduce the allowable credit by an amount proportionate to the deficiency, and has the discretion to impose further reductions in allowable credit upon finding that there is a material risk that the certified reinsurer's obligations will not be paid in full when due.

(vi)*(a)* For purposes of this subdivision (b)(6), a certified reinsurer whose certification has been terminated for any reason shall be treated as a certified reinsurer required to secure one hundred percent (100%) of its obligations.

(b) As used in this subdivision (b)(6), "terminated" refers to revocation, suspension, voluntary surrender, or inactive status.

(c) If the commissioner continues to assign a higher rating as permitted by other provisions of this section, this subdivision (b)(6)(F)(vi) does not apply to a certified reinsurer in active status or to a reinsurer whose certification has been suspended.

(G) If an applicant for certification has been certified as a reinsurer in an NAIC accredited jurisdiction, the commissioner has the discretion to defer to that jurisdiction's certification, and has the discretion to defer to the rating assigned by that jurisdiction, and such assuming insurer shall be considered to be a certified reinsurer in this state.

(H) A certified reinsurer that ceases to assume a new business in this state may request to maintain its certification in inactive status in order to continue to qualify for a reduction in security for its in-force business. An inactive certified reinsurer shall continue to comply with all applicable requirements of this subdivision (b)(6), and the commissioner shall assign a rating that takes into account, if relevant, the reasons why the reinsurer is not assuming new business.

(7) Credits shall be allowed when the reinsurance is ceded to an assuming insurer not meeting the requirements of any of subdivisions (b)(2)-(6), but only with respect to the insurance of risks located in jurisdictions where the reinsurance is required by applicable law, rule, or regulation of that jurisdiction.

(8)(A) If the assuming insurer is not licensed, accredited or certified to transact insurance or reinsurance in this state, the credit permitted by subdivisions (b)(4) and (5) shall not be allowed unless the assuming

insurer agrees in the reinsurance agreements:

(i) That, in the event of the failure of the assuming insurer to perform its obligations under the terms of the reinsurance agreement, the assuming insurer, at the request of the ceding insurer, shall submit to the jurisdiction of any court of competent jurisdiction in any state of the United States, shall comply with all requirements necessary to give the court jurisdiction, and shall abide by the final judgment of the court or of any appellate court in the event of an appeal; and

(ii) To designate the commissioner or a designated attorney to receive service of process in any action, suit or proceeding instituted by or on behalf of the ceding company.

(B) This subdivision (b)(8) shall not prohibit or otherwise prevent the parties to a reinsurance agreement from arbitrating disputes, if such an obligation is created in the agreement between the parties.

(9) If the assuming insurer does not meet the requirements of subdivision (b)(2), (b)(3), or (b)(4), the credit permitted by subdivision (b)(5) or (b)(6) shall not be allowed unless the assuming insurer agrees in the trust agreements to the following conditions:

(A) Notwithstanding any other provisions in the trust instrument, if the trust fund is inadequate because it contains an amount less than the amount required by subdivision (b)(5)(C), or if the grantor of the trust has been declared insolvent or placed into receivership, rehabilitation, liquidation or similar proceedings under the laws of its state or country of domicile, the trustee shall comply with an order of the commissioner with regulatory oversight over the trust or with an order of a court of competent jurisdiction directing the trustee to transfer to the commissioner with regulatory oversight all of the assets of the trust fund;

(B) The assets shall be distributed by and claims shall be filed with and valued by the commissioner with regulatory oversight in accordance with the laws of the state in which the trust is domiciled that are applicable to the liquidation of domestic insurance companies;

(C) If the commissioner with regulatory oversight determines that assets of the trust fund or any part thereof are not necessary to satisfy the claims of the United States ceding insurers of the grantor of the trust, the assets or part thereof shall be returned by the commissioner with regulatory oversight to the trustee for distribution in accordance with the trust agreement; and

(D) The grantor shall waive any right otherwise available to it under United States law that is inconsistent with this subdivision (b)(9).

(10)(A) If an accredited or certified reinsurer ceases to meet the requirements for accreditation or certification, the commissioner may suspend or revoke the reinsurer's accreditation or certification.

(B) The commissioner must give the reinsurer notice and an opportunity for hearing in accordance with the Uniform Administrative Procedures Act. The suspension or revocation may not take effect until after the commissioner's order or hearing, unless:

(i) The reinsurer waives its right to hearing;

(ii) The commissioner's order is based on regulatory action by the reinsurer's domiciliary jurisdiction or the voluntary surrender or termination of the reinsurer's eligibility to transact insurance or reinsurance business in its domiciliary jurisdiction or in the primary certifying state

of the reinsurer under subdivision (b)(6)(F); or

(iii) The commissioner finds that an emergency requires immediate action and a court of competent jurisdiction has not stayed the commissioner's action.

(C) While a reinsurer's accreditation or certification is suspended, no reinsurance contract issued or renewed after the effective date of the suspension qualifies for credit, except to the extent that the reinsurer's obligations under the contract are secured in accordance with § 56-2-209. If a reinsurer's accreditation or certification is revoked, no credit for reinsurance may be granted after the effective date of the revocation, except to the extent that the reinsurer's obligations under the contract are secured in accordance with subdivision (b)(6)(E) or § 56-2-209.

(11) **Concentration Risk.**

(A) A ceding insurer shall take steps to manage its reinsurance recoverables proportionate to its own book of business. A domestic ceding insurer shall notify the commissioner within thirty (30) days after reinsurance recoverables from any single assuming insurer, or group of affiliated assuming insurers, exceeds fifty percent (50%) of the domestic ceding insurer's last reported surplus to policyholders, or after it is determined that reinsurance recoverables from any single assuming insurer, or group of affiliated assuming insurers, are likely to exceed this limit. The notification shall demonstrate that the exposure is safely managed by the domestic ceding insurer.

(B) A ceding insurer shall take steps to diversify its reinsurance program. A domestic ceding insurer shall notify the commissioner within thirty (30) days after ceding to any single assuming insurer, or group of affiliated assuming insurers, more than twenty percent (20%) of the ceding insurer's gross written premium in the prior calendar year, or after it has determined that the reinsurance ceded to any single assuming insurer, or group of affiliated insurers, is likely to exceed this limit. The notification shall demonstrate that the exposure is safely managed by the domestic ceding insurer.

56-2-209. Assuming insurers — Determination of financial condition.

(a)(1) An asset or a reduction from liability for the reinsurance ceded by a domestic insurer to an assuming insurer not meeting the requirements of § 56-2-208 shall be allowed in an amount not exceeding the liabilities carried by the ceding insurer. However, the commissioner may adopt by rule pursuant to subsection (g) specific additional requirements relating to or setting forth:

(A) The valuation of assets or reserve credits;

(B) The amount and forms of security supporting reinsurance arrangements described in subsection (g); and

(C) The circumstances pursuant to which credit will be reduced or eliminated.

(2) The reduction shall be in the amount of funds held by or on behalf of the ceding insurer, including funds held in trust for the ceding insurer, under a reinsurance contract with the assuming insurer as security for the payment of obligations under the contract, if the security is held in the United States subject to withdrawal solely by, and under the exclusive control of, the ceding insurer, or, in the case of a trust, held in a qualified

United States financial institution. This security may be in the form of:

(A) Cash;

(B) Securities listed by the Securities Valuation Office of the National Association of Insurance Commissioners, including those deemed exempt from filing as defined by the Purposes and Procedures Manual of the Securities Valuation Office, and qualifying as admitted assets;

(C) Clean, irrevocable, unconditional letters of credit, issued or confirmed by a qualified United States financial institution no later than December 31 of the year for which filing is being made, and in the possession of the ceding company on or before the filing date of its annual statement; or

(D) Any other form of security acceptable to the commissioner.

(b) Letters of credit meeting applicable standards of issuer acceptability as of the dates of their issuance, or confirmation, shall, notwithstanding the issuing or confirming institution's subsequent failure to meet applicable standards of issuer acceptability, continue to be acceptable as security until their expiration, extension, renewal, modification or amendment, whichever first occurs.

(c) For purposes of subdivision (a)(3), a "qualified United States financial institution" means an institution that:

(1) Is organized or licensed, in the case of a United States office of a foreign banking organization, under the laws of the United States or any state in the United States;

(2) Is regulated, supervised and examined by United States federal or state authorities having regulatory authority over banks and trust companies; and

(3) Has been determined by either the commissioner, or the Securities Valuation Office of the National Association of Insurance Commissioners, to meet the standards of financial condition and standing considered necessary and appropriate to regulate the quality of financial institutions whose letters of credit will be acceptable to the commissioner.

(d) For purposes of those provisions of this chapter specifying those institutions that are eligible to act as a fiduciary of a trust, "qualified United States financial institution" means an institution that:

(1) Is organized or licensed, in the case of a United States branch or agency office of a foreign banking organization, under the laws of the United States or any state and has been granted authority to operate with fiduciary powers; and

(2) Is regulated, supervised and examined by federal or state authorities having regulatory authority over banks and trust companies.

(e) The commissioner may adopt rules and regulations implementing this section and § 56-2-208. The rules and regulations shall be promulgated pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(f) This section and § 56-2-208 apply to all cessions after July 1, 1993, under reinsurance agreements that have had an inception, anniversary, or renewal date not less than six (6) months after July 1, 1993.

(g)(1) The commissioner is further authorized to promulgate rules applicable to reinsurance arrangements described in this subdivision (g)(1) relating to:

(A) Life insurance policies with guaranteed nonlevel gross premiums or

guaranteed nonlevel benefits;

(B) Universal life insurance policies with provisions resulting in the ability of a policyholder to keep a policy in force over a secondary guarantee period;

(C) Variable annuities with guaranteed death or living benefits;

(D) Long-term care insurance policies; or

(E) Other life and health insurance and annuity products as to which the commissioner adopts regulatory requirements with respect to credit for reinsurance.

(2) A rule promulgated pursuant to subdivision (g)(1)(A) or (g)(1)(B) may apply to any treaty containing:

(A) Policies issued on or after January 1, 2015; or

(B) Policies issued prior to January 1, 2015, if risk pertaining to such pre-2015 policies is ceded in connection with the treaty, in whole or in part, on or after January 1, 2015.

(3) A rule promulgated pursuant to this subsection (g) may require the ceding insurer, in calculating the amounts or forms of security required to be held under rules promulgated under this authority, to use the Valuation Manual adopted by the National Association of Insurance Commissioners (NAIC) under Section 11B(1) of the NAIC Standard Valuation Law, including all amendments adopted by the NAIC and in effect on the date as of which the calculation is made, to the extent applicable.

(4) A rule promulgated pursuant to this subsection (g) does not apply to cessions to an assuming insurer that:

(A) Is certified in this state or certified in a minimum of five (5) other states; or

(B) Maintains at least two hundred and fifty million dollars ($250,000,000) in capital and surplus, determined in accordance with the NAIC Accounting Practices and Procedures Manual, including all amendments to such manual that are adopted by the NAIC, excluding the impact of any permitted or prescribed practices; and is:

(i) Licensed in at least twenty-six (26) states; or

(ii) Licensed in at least ten (10) states, and licensed or accredited in a total of at least thirty-five (35) states.

(5) The authority to promulgate rules pursuant to this subsection (g) does not limit the commissioner's authority to adopt rules pursuant to subsection (e). All rules under this subsection (g) must be promulgated in accordance with the Uniform Administrative Procedures Act.

56-2-901. Short title. [Effective January 1, 2019.]

This part shall be known and may be cited as the "Corporate Governance Annual Disclosure Act."

56-2-902. Purpose and scope. [Effective January 1, 2019.]

(a) The purpose of this part is to:

(1) Provide the commissioner a summary of an insurer or insurance group's corporate governance structure, policies, and practices to permit the commissioner to gain and maintain an understanding of the insurer's corporate governance framework;

(2) Outline the requirements for completing a corporate governance annual

disclosure with the commissioner; and

(3) Provide for the confidential treatment of the corporate governance annual disclosure and related information.

(b) Nothing in this part prescribes or imposes corporate governance standards and internal procedures beyond that which is required under applicable law. Notwithstanding this section, nothing in this part limits the commissioner's authority or the rights or obligations of third parties under §§ 56-1-408 — 56-1-413.

(c) This part applies to all insurers domiciled in this state, except for:

(1) Captive insurance companies licensed under the Revised Tennessee Captive Insurance Act, compiled in chapter 13 of this title; and

(2) Risk retention groups licensed under chapter 45 of this title.

56-2-903. Part definitions. [Effective January 1, 2019.]

As used in this part:

(1) "Commissioner" means the commissioner of commerce and insurance;

(2) "Corporate governance annual disclosure" or "CGAD" means a confidential report filed by the insurer or insurance group in accordance with this part;

(3) "Department" means the department of commerce and insurance;

(4) "Insurance group" means those insurers and affiliates included within an insurance holding company system as defined in § 56-11-101;

(5) "Insurer" has the same meaning as "insurance company" in § 56-1-102, except that "insurer" does not include agencies, authorities, or instrumentalities of the United States, its possessions and territories, the Commonwealth of Puerto Rico, the District of Columbia, or a state or political subdivision of a state;

(6) "NAIC" means the National Association of Insurance Commissioners; and

(7) "ORSA summary report" means the report filed in accordance with chapter 11, part 2 of this title.

56-2-904. Disclosure requirement. [Effective January 1, 2019.]

(a) An insurer, or the insurance group of which the insurer is a member, shall, no later than June 1 of each calendar year, submit to the commissioner a CGAD that contains the information described in § 56-2-906(b). However, an insurer or insurance group that files a CGAD pursuant to § 56-2-906(c) may elect to file the CGAD either no later than June 1 or December 31 of each calendar year. Notwithstanding any request from the commissioner made pursuant to subsection (c), if the insurer is a member of an insurance group, the insurer must submit the report required by this section to the applicable insurance commissioner of the lead state for the insurance group, in accordance with the laws of the lead state, as determined by the procedures outlined in the most recent Financial Analysis Handbook adopted by the NAIC.

(b) The CGAD must include a signature of the insurer or the insurance group's chief executive officer or corporate secretary attesting that, to the best of that individual's belief and knowledge, the insurer has implemented the corporate governance practices described in the CGAD and that a copy of the disclosure has been provided to the insurer's board of directors or the appropriate committee of the board.

(c) An insurer not required to submit a CGAD under this part shall do so

upon the commissioner's request.

(d)(1) For the purposes of completing the CGAD, the insurer or insurance group may provide information regarding corporate governance at the ultimate controlling parent level, an intermediate holding company level, the individual legal entity level, or at a combination of levels depending upon how the insurer or insurance group has structured its system of corporate governance. The insurer or insurance group shall consider the following criteria in determining the level at which the CGAD should be filed:

(A) The level at which the insurer's or insurance group's risk appetite is determined;

(B) The level at which the earnings, capital, liquidity, operations, and reputation of the insurer are overseen collectively and at which the supervision of those factors are coordinated and exercised; or

(C) The level at which legal liability for failure of general corporate governance duties would be placed.

(2) If, subsequent to the initial filing of the CGAD, the insurer changes the level of reporting, the insurer shall explain the reason for the change in the first CGAD filed after the change in level of reporting.

(e) The review of the CGAD and any additional requests for information must be made through the lead state as determined by the procedures within the most recent Financial Analysis Handbook adopted by the NAIC.

(f) Insurers providing information substantially similar to the information required by this part in other documents provided to the commissioner, including proxy statements filed in conjunction with Form B requirements, or other state or federal filings provided to the commissioner, or as part of any department request or examination, are not required to duplicate that information in the CGAD, but are only required to cross reference the document in which the information is included.

56-2-905. Rules. [Effective January 1, 2019.]

The commissioner may promulgate rules as are necessary to carry out this part in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

56-2-906. Contents of corporate governance annual disclosure. [Effective January 1, 2019.]

(a) The insurer or insurance group has discretion over the responses to the CGAD inquiries, provided that the CGAD must contain the material information necessary to permit the commissioner to gain an understanding of the insurer's or group's corporate governance structure, policies, and practices. The commissioner may request additional information that the commissioner deems material and necessary to provide the commissioner with a clear understanding of the corporate governance policies, the reporting or information system, or the controls implementing those policies.

(b) Notwithstanding subsection (a), the CGAD must be prepared consistent with rules promulgated pursuant to this part. The rules must be consistent with subsection (c). Documentation and supporting information must be maintained and made available upon examination or upon the request of the commissioner.

(c) Rules promulgated under this part must prescribe separate but suitable corporate governance reporting requirements for any insurer or insurance group that is not admitted to write insurance on a direct basis in any other

jurisdiction and is either:

(1) Organized under the Tennessee Nonprofit Corporation Act, compiled in title 48, chapters 51-68; or

(2) Governed by a board of which at least seventy-five percent (75%) of its voting directors receive no more than nominal compensation.

56-2-907. Confidentiality. [Effective January 1, 2019.]

(a) Documents, materials, or other information, including the CGAD, in the possession or control of the department that are obtained by, created by, or disclosed to the commissioner or any other person under this part, are recognized as being proprietary and containing trade secrets. All such documents, materials, or other information are confidential by law and privileged, are not subject to public inspection under § 10-7-503 or § 56-1-602, are not subject to subpoena, and are not subject to discovery or admissible in evidence in any private civil action. However, the commissioner is authorized to use the documents, materials, or other information in the furtherance of any regulatory or legal action brought as part of the commissioner's official duties. The commissioner shall not otherwise make the documents, materials, or other information public without the prior written consent of the insurer. Nothing in this section requires the written consent of the insurer before the commissioner may share or receive confidential documents, materials, or other CGAD-related information pursuant to subsection (c) to assist in the performance of the commissioner's official duties.

(b) Neither the commissioner nor any person that receives documents, materials, or other CGAD-related information, through examination or otherwise, while acting under the authority of the commissioner, or with whom the documents, materials, or other information are shared pursuant to this part, are permitted or required to testify in any private civil action concerning any confidential documents, materials, or information subject to subsection (a).

(c) In order to assist the commissioner in the performance of the commissioner's regulatory duties, the commissioner:

(1) May, as necessary and upon request, share documents, materials, or other CGAD-related information, including the confidential and privileged documents, materials, or information subject to subsection (a), and including proprietary and trade secret documents and materials, with other state, federal, or international financial regulatory agencies, including members of any supervisory college as set forth in § 56-11-116, and with the NAIC, and with third-party consultants pursuant to § 56-9-108; provided, that the recipient agrees in writing to maintain the confidentiality and privileged status of the CGAD-related documents, materials, or other information and has verified in writing its legal authority to maintain such confidentiality; and

(2) May receive documents, materials, or other CGAD-related information, including otherwise confidential and privileged documents, materials, or information, and including proprietary and trade-secret information or documents, from regulatory officials of other state, federal, or international financial regulatory agencies, including members of any supervisory college as set forth in § 56-11-116, and from the NAIC, and shall maintain as confidential or privileged any such documents, materials, or information received with notice or the understanding that they are confidential or privileged under the laws of the jurisdiction that is the source of the

documents, materials, or information.

(d) The sharing of information and documents by the commissioner pursuant to this part does not constitute a delegation of regulatory authority or rulemaking, and the commissioner is solely responsible for the administration, execution, and enforcement of this part.

(e) No waiver of any applicable privilege or claim of confidentiality in documents, proprietary and trade-secret materials, or other CGAD-related information shall occur as a result of disclosure of CGAD-related information or documents to the commissioner under this part or as a result of sharing as authorized under this part.

56-2-908. NAIC and third-party consultants. [Effective January 1, 2019.]

(a) The commissioner may retain, at the insurer's expense, third-party consultants, including attorneys, actuaries, accountants, and other experts not otherwise part of the commissioner's staff, as may be reasonably necessary to assist the commissioner in reviewing the CGAD and related information or the insurer's compliance with this part.

(b) Any persons retained under subsection (a) are under the direction and control of the commissioner and shall act in a purely advisory capacity.

(c) The NAIC and any third-party consultants are subject to the same confidentiality standards and requirements as the commissioner.

(d) As part of the retention process, a third-party consultant shall verify to the commissioner, with notice to the insurer, that it is free of conflicts of interest and that it has internal procedures in place to monitor compliance with conflicts and to comply with the confidentiality standards and requirements of this part.

(e) A written agreement with the NAIC or a third-party consultant governing sharing and use of information provided pursuant to this part must contain the following provisions and expressly require the written consent of the insurer prior to making public information provided under this part:

(1) Specific procedures and protocols for maintaining the confidentiality and security of CGAD-related information shared with the NAIC or a third-party consultant pursuant to this part;

(2) Procedures and protocols for sharing by the NAIC only with other state regulators from states in which the insurance group has domiciled insurers. The agreement must provide that the recipient agrees in writing to maintain the confidentiality and privileged status of the CGAD-related documents, materials, or other information and has verified in writing its legal authority to maintain confidentiality;

(3) A provision specifying that ownership of the CGAD-related information shared with the NAIC or a third-party consultant remains with the department and that the NAIC's or third-party consultant's use of the information is subject to the direction of the commissioner;

(4) A provision that prohibits the NAIC or a third-party consultant from storing the information shared pursuant to this part in a permanent database after the underlying analysis is completed;

(5) A provision requiring the NAIC or third-party consultant to provide prompt notice to the commissioner and to the insurer or insurance group regarding any subpoena, request for disclosure, or request for production of

the insurer's CGAD-related information; and

(6) A requirement that the NAIC or a third-party consultant consent to intervention by an insurer in any judicial or administrative action in which the NAIC or a third-party consultant may be required to disclose confidential information about the insurer shared with the NAIC or a third-party consultant pursuant to this part.

56-2-909. Sanctions. [Effective January 1, 2019.]

Any insurer failing, without just cause, to timely file the CGAD as required in this part is required, after notice and a hearing, to pay a civil penalty of one hundred dollars ($100) per day for each day of delay, to be recovered by the commissioner, which must be paid into the general fund of this state. The maximum penalty under this section is ten thousand dollars ($10,000). The commissioner may reduce the civil penalty if the insurer demonstrates to the commissioner that imposition of the civil penalty would constitute a financial hardship to the insurer in the commissioner's sole discretion.

56-2-910. Severability. [Effective January 1, 2019.]

If any provision of this part other than § 56-2-907, or the application of this part to any person or circumstance, is held invalid, such determination shall not affect the provisions or applications of this part that can be given effect without the invalid provision or application, and to that end the provisions of this part, with the exception of § 56-2-907, are severable.

56-3-102. [Repealed.]

56-5-106. Filing by commercial risk insurers.

(a)(1) Except as provided in subsections (b), (c), and (d), every insurer of commercial risk insurance shall file with the commissioner all rates, supplementary rate information, policy forms and endorsements, not later than fifteen (15) days after the effective date; provided, that the rates, supplementary rate information, policy forms and endorsements need not be filed for inland marine risks that by general custom of the business are not written according to manual rules of rating plans. Upon request of the commissioner, supporting information shall also be filed.

(2) The commissioner may, after a hearing providing not less than twenty (20) days' written notice to the insurer, disapprove any policy form or endorsement already in effect if it does not comply with the law or with rules adopted pursuant to this part or if it contains any provision that is unfair, deceptive or misleading. The disapproval order shall specify the reasons for the commissioner's findings and the date, not less than thirty (30) days after issuance of the order, when the disapproval is effective, and it shall thereafter be unlawful for the insurer to use the form or endorsement in this state.

(b)(1) The following insurance coverages are exempt from filing requirements with respect to rates, supplementary rate information, policy forms, and endorsements, where applicable under this chapter, whether the insurance coverage is endorsed to or sold as a stand-alone policy:

(A) Boiler and machinery;

(B) Environmental impairment or pollution liability;

(C) Kidnap and ransom;
(D) Political risk or expropriation;
(E) Employment practices liability;
(F) Media liability; and
(G) Product liability, product recall, and completed operations.

(2) The exemption from filing requirements in this subsection (b) does not affect any other requirements of this title, including those applicable to cancellation of commercial insurance policies.

(3) The insurer shall deliver to the insured and the producer of record a copy of a policy issued pursuant to this subsection (b). The policy may be delivered to the applicant or policyholder electronically and must contain a disclaimer in language the same as or substantially similar to the following:

The rate provided for in this policy and all forms utilized are exempt from the filing requirements of Tenn. Code Ann. § 56-5-106.

(c) With respect to workers' compensation insurance, a rate service organization designated by one (1) or more insurers shall develop and file for approval with the commissioner in accordance with this section, a filing on behalf of authorized insurers containing advisory prospective loss costs and supporting actuarial and statistical data for workers' compensation insurance, including loss adjustment expenses. An advisory prospective loss costs filing shall become effective only when approved pursuant to § 50-6-402.

(d) Each workers' compensation insurer, or group of insurers under common ownership, shall individually file with the commissioner the multiplier and supporting information not later than fifteen (15) days after the effective date, and at least annually thereafter on March 1. Multipliers shall apply to the most recently approved, currently effective advisory prospective loss cost.

(e) All multipliers filed pursuant to subsection (d) shall be actuarially justified and shall be certified by a member in good standing of the Casualty Actuarial Society.

56-5-107. Inspection of filings — Surcharges — Residual market mechanisms — Alternative filings.

(a) **Filings Open to Inspection.** All rates, supplementary rate information, policy forms, endorsements, and any supporting information filed under this part shall, as soon as filed, be open to public inspection at any reasonable time, except any information that is a trade secret under the Uniform Trade Secrets Act, compiled in title 47, chapter 25, part 17, as determined by the commissioner in the commissioner's sole discretion. The insurer or filer shall have the burden of asserting to the commissioner that the information is a trade secret. Insurers may file certain information with the commissioner for a determination as to whether it would be held to be a trade secret under this subsection (a). Such information shall not be made public during the pendency of the review. Should it be determined that such information is not trade secret information, then the commissioner shall return such information to the insurer or filer. Copies of public information may be obtained by any person on request and upon payment of a reasonable charge.

(b) **Consent to Rate.** Notwithstanding any other provisions of this part, upon written application of an insured, stating specific reasons why a risk requires higher than standard rates on file by an insurer, a rate in excess of that provided by a filing otherwise applicable may be used on a specific risk. An

endorsement shall be attached to the policy, giving the reasons and the percentage of surcharge. A copy of the endorsement shall be kept by the insurer and its agent. The copies shall be made available to the commissioner upon request for review to determine that the rates are not excessive, inadequate or unfairly discriminatory.

(c) **Residual Market Mechanism.** No filing, whether personal or commercial risk, shall be used for a residual market mechanism until it has become effective pursuant to § 56-5-105.

(d) **Rate Service Organization Filings.**

(1)(A) The filings required by §§ 56-5-105 and 56-5-106, except § 56-5-106(d), including advisory prospective loss costs, other than rates for policies issued pursuant to any residual market mechanism for workers' compensation insurance established under § 56-5-114, may be made by a rate service organization designated by an insurer.

(B) The filings required by § 56-5-106 for rates for policies issued pursuant to any residual market mechanism established under § 56-5-114 for workers' compensation insurance shall be made by a rate service organization designated by the commissioner.

(2) An insurer may make a filing, for lines other than workers' compensation, in compliance with §§ 56-5-105 and 56-5-106 and by giving written notice to the commissioner that the insurer is following rates as filed by a rate service organization in a particular line with any exceptions clearly set forth as are necessary to fully inform the commissioner.

(e) **Reference Filings.** An insurer may file by reference to rates, supplementary rate information, supporting information, and policy forms and endorsements filed by and effective for another insurer or a rate service organization.

(f) **Number of Rate Filings.** A company shall not be limited in the number of rate filings which a company may file in any one (1) calendar year; however, should a company make more than one (1) rate filing in one (1) calendar year for a single type of insurance coverage, the company shall pay to the commissioner for each additional rate filing the fee of two hundred and fifty dollars ($250) as well as all costs incurred by the commissioner for an actuarial review of the rate filing. The fee provided for by this subsection (f) and cost requirements shall not apply to advisory prospective loss cost filings by the commissioner's designated rate service organization.

56-5-122. Exempt commercial risk policyholders.

(a) For purposes of this section:

(1) "Exempt commercial risk policyholder" means an insured that either employs the services of an insurance producer licensed in property or casualty lines of authority or procures commercial risk insurance with the services of a full-time risk manager, and:

(A) Is a city, county, or metropolitan government with a population of at least fifty thousand (50,000), according to the 2010 federal census or any subsequent census;

(B) Is this state;

(C) Is a not-for-profit organization or a public entity with an annual budget of at least twenty-five million dollars ($25,000,000) in the preceding fiscal year; or

(D) Is a commercial risk policyholder that annually certifies to the department on a form designated by the department that the policyholder:

(i) Possesses a net worth of more than ten million dollars ($10,000,000) at the time the policy of insurance is issued;

(ii) Generated net revenue or sales of more than fifteen million dollars ($15,000,000) in the preceding fiscal year;

(iii) Employs more than twenty-five (25) employees per individual company or fifty (50) employees per holding company at the time the policy of insurance is issued; and

(iv) Paid annual aggregate insurance premiums of at least two hundred thousand dollars ($200,000) in the preceding fiscal year of commercial risk insurance as defined in § 56-5-102, excluding any premiums paid for accident and health insurance and workers' compensation and employer's liability insurance as defined in § 56-2-201; and

(2) "Risk manager" means a person who:

(A) Holds an Accredited Advisor in Insurance (AAI) or Associate in Risk Management (ARM) designation for property and casualty lines of authority;

(B) Holds a risk management in insurance degree from an accredited college or university for property and casualty lines of authority; or

(C) Is qualified by experience, as determined by the commissioner.

(b) Section 56-5-106(a) does not apply to a commercial risk policy issued to an exempt commercial risk policyholder by an insurer of commercial risk insurance.

(c) An insurer of commercial risk insurance is subject to the penalties provided in § 56-2-305 if the:

(1) Insurer does not comply with § 56-5-106(a) relative to a commercial risk insurance policy issued to a commercial risk policyholder; and

(2) Policyholder has not filed a certification as required by subdivision (a)(1)(D).

(d) The certification form filed by a commercial risk policyholder pursuant to subdivision (a)(1)(D) shall be confidential and not subject to title 10, chapter 7, part 5.

(e) Any application or policy issued to an exempt commercial risk policyholder must contain a disclaimer in language the same as or substantially similar to the following:

The rate provided for in this policy and all forms utilized are exempt from the filing requirements of Tenn. Code Ann. § 56-5-106.

56-6-105. Application for examination.

(a) A resident individual applying for an insurance producer license shall pass a written examination unless exempt pursuant to § 56-6-109. The examination shall test the knowledge of the individual concerning the lines of authority for which application is made, the duties and responsibilities of an insurance producer and the insurance laws and regulations of this state. Each individual wishing to take the state insurance examination shall first complete either an on-site or on-line preparation program approved by the commission. A person seeking an insurance producer license shall also meet the following prelicensing requirements:

(1) All applicants for an insurance producer license, unless otherwise exempted by law, are required to register and complete either an on-line or

classroom study program approved by the commissioner;

(2) Applicants for a license shall be at least eighteen (18) years of age or older; and

(3) All other requirements for an insurance license shall be developed and conducted under rules and regulations prescribed by the commissioner.

(b) The commissioner may make arrangements, including contracting with an outside testing service, for administering examinations and collecting the nonrefundable examination fee.

(c) An individual who fails to appear for the examination as scheduled or fails to pass the examination, shall reapply for an examination and remit all required fees and forms before being rescheduled for another examination.

(d)(1) An individual who fails to pass the examination on the first attempt must wait at least ten (10) calendar days before reapplying to take the examination a second time.

(2) An individual who fails to pass the examination on the second attempt, or any subsequent attempt, must wait at least thirty (30) calendar days before reapplying to take the examination another time.

56-6-502. Part definitions.

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

(1) "Actuary" means a person who is a member in good standing of the American Academy of Actuaries;

(2) "Insurer" means any person, firm, association or corporation duly licensed in this state as an insurance company pursuant to § 56-2-102;

(3)(A) "Managing general agent" or "MGA" means any person who:

(i) Manages all or part of the insurance business of an insurer, including the management of a separate division, department, or underwriting office; and

(ii) Acts as an agent for such insurer, whether known as a MGA, manager, or other similar term, and who, with or without the authority, either separately or together with affiliates, produces, directly or indirectly, and underwrites an amount of gross direct written premium equal to or more than five percent (5%) of the policyholder surplus in any one (1) quarter or year, as reported in the last annual statement of the insurer, and, related to the business produced, either:

(a) Adjusts or pays claims in excess of ten thousand dollars ($10,000) per claim; or

(b) Negotiates reinsurance on behalf of the insurer;

(B) Notwithstanding subdivision (3)(A), the following persons shall not be considered as MGAs for the purposes of this part:

(i) An employee of the insurer;

(ii) A United States manager of the United States branch of an alien insurer;

(iii) An underwriting manager that, pursuant to contract, manages all the insurance operations of the insurer, is under common control with the insurer, subject to the Insurance Holding Company System Act of 1986, compiled in chapter 11 of this title, and whose compensation is not based on the volume of premiums written; and

(iv) The attorney-in-fact authorized by and acting for the subscribers of a reciprocal insurer or inter-insurance exchange under powers of

attorney; and

(4) "Underwrite" means the authority to accept or reject risk on behalf of the insurer.

56-7-102. Policies to contain entire contract — Exceptions — Construed as Tennessee contracts — Rules of construction — Duty to defend.

(a) Every policy of insurance, issued to or for the benefit of any citizen or resident of this state on or after July 1, 1907, by any insurance company or association doing business in this state, except fraternal beneficiary associations and mutual insurance companies or associations operating on the assessment plan, or policies of industrial insurance, shall contain the entire contract of insurance between the parties to the contract, and every contract so issued shall be held as made in this state and construed solely according to the laws of this state.

(b) A policy of insurance is a contract and the rules of construction used to interpret a policy of insurance are the same as any other contract.

(c) A policy of insurance must be interpreted fairly and reasonably, giving the language of the policy of insurance its ordinary meaning.

(d) A policy of insurance must be construed reasonably and logically as a whole.

(e) An insurance company's duty to defend depends solely on the allegations contained in the underlying complaint describing acts or events covered by the policy of insurance. This subsection (e) does not impose a duty to defend on an insurance company that has no duty to defend pursuant to this title or that has an express exclusion of the duty to defend in the policy of insurance.

56-7-120. Assignment of benefits to health care provider.

(a)(1) Notwithstanding any law to the contrary, if a policy of insurance issued in this state provides for coverage of health care rendered by a healthcare provider covered under title 63, the insured or other persons entitled to benefits under the policy are entitled to assign their benefits to the healthcare provider and such rights must be stated clearly in the policy. Notice of the assignment must be in writing to the insurer in order to be effective unless otherwise stated in the policy.

(2) If a property and casualty insurance policy includes a specified medical expense benefit payable without regard to fault, but does not permit assignment of the benefit, the insurer must establish a process that, when requested by the insured, the insurer must disburse funds in the names of the insured and the healthcare provider as joint payees. Disbursement is subject to the terms and conditions under the issued policy.

(b) As used in this section:

(1) "Emergency medical services" means the services used in responding to the perceived individual need for immediate medical care in order to prevent loss of life or aggravation of physiological or psychological illness or injury;

(2) "Health insurance coverage":

(A) Means benefits consisting of medical care, provided directly, through insurance or reimbursement, or otherwise and including items and services paid for as medical care, under any policy, certificate or

agreement offered by a health insurance entity; and

(B) Does not include policies or certificates covering only accident, credit, disability income, long-term care, hospital indemnity, medicare supplement as defined in 42 U.S.C. § 1395ss(g)(1), specified disease, other limited benefit health insurance, automobile medical payment insurance, or insurance under which benefits are payable with or without regard to fault and that are statutorily required to be contained in any liability insurance policy or equivalent self-insurance;

(3) "Healthcare facility" means a hospital as defined in title 68, chapter 11, part 2, or an ambulatory surgical treatment center as defined in title 68, chapter 11, part 2;

(4) "Healthcare provider" means any doctor of medicine, osteopathy, dentistry, chiropractic, podiatry, or optometry; a pharmacist or pharmacy; a hospital; home health agency; an entity providing infusion therapy services; or an entity providing medical equipment services;

(5) "Insured" or "covered person" means a person on whose behalf a health insurance entity offering health insurance coverage is obligated to pay benefits or provide services; and

(6) "Stabilized" means the insured is no longer in need of emergency medical services.

(c)(1) For purposes of this subsection (c):

(A) "In-network healthcare facility" means a hospital or ambulatory treatment surgical center licensed under title 68, chapter 11, part 2 that has a current contract provider agreement with the insured's insurer; and

(B) "Out-of-network facility-based physician" means a physician:

(i) To whom a participating healthcare facility has granted clinical privileges;

(ii) Who provides services to patients of the participating healthcare facility pursuant to those clinical privileges; and

(iii) Who does not have a current contract or provider agreement with the insured's insurer.

(2) An insured's assignment of benefits, pursuant to subsection (a), may be disregarded by an insurer if:

(A) The assignment of benefits is to an out-of-network facility-based physician; and

(B) The following conditions are not satisfied:

(i) The healthcare facility provides written notice to the insured, or the insured's personal representative, that includes the following:

(a) A statement that the out-of-network facility-based physician may not have a current contract provider agreement with the insured's insurer;

(b) A statement that the insured agrees to receive medical services by an out-of-network healthcare provider and will receive a bill for one hundred percent (100%) of billed charges for the amount unpaid by the insured's insurer;

(c) The estimated amount that the facility will charge the insured for items and services provided by the facility in accordance with the insured's health benefits coverage for the items and services; and

(d) A listing of anesthesiologists, radiologists, emergency room physicians, and pathologists or the groups of such physicians with which the facility has contracted, including the physician or group

name, phone number, and website;

(ii) The insured signs the written notice, acknowledging agreement to receive medical services by an out-of-network provider; and

(iii) The written notice includes the following statement:

The physicians and other providers that may treat the patient at this facility may not be employed by this facility and may not participate in the patient's insurance network.

Anesthesiologists, radiologists, emergency room physicians, and pathologists are not employed by this facility. Services provided by those specialists, among others, will be billed separately.

Before receiving services, the patient should check with his or her insurance carrier to find out if the patient's providers are in-network. Otherwise, the patient may be at risk of higher out-of-network charges.

(d)(1) The written notice required by subdivision (c)(2)(B) must be provided to the insured, or the insured's personal representative, prior to when the insured first receives services from the out-of-network facility-based physician. If the insured is receiving medical services through a hospital emergency department or is incapacitated or unconscious at the time of receiving services, the written notice is not required until the insured is stabilized.

(2) The failure of the healthcare facility to provide the notice required by subdivision (c)(2)(B) does not give rise to any right of indemnification or private cause of action against the healthcare facility by an out-of-network facility-based physician for an insurer's disregard of an insured's assignment of benefits unless:

(A) The healthcare facility's failure to provide the written notice is due to willful or wanton misconduct of an agent of the healthcare facility; and

(B) The out-of-network facility-based physician provides the insured a billing statement that:

(i) Contains an itemized listing of the services and supplies provided along with the dates when the services and supplies were provided;

(ii) Contains a conspicuous, plain language explanation that:

(a) The out-of-network facility-based physician does not have a current contract provider agreement with the insured's insurer; and

(b) The insurer has paid a rate, as determined by the insurer, that is below the out-of-network facility-based physician's billed amount;

(iii) Contains a telephone number to call to discuss the billing statement; provide an explanation of any acronyms, abbreviations, and numbers used on the statement; or discuss any payment issues;

(iv) Contains a statement that the insured may call the telephone number described in subdivision (d)(2)(B)(iii) to discuss alternative payment arrangements;

(v) For billing statements that total an amount greater than two hundred dollars ($200), over any applicable copayments, coinsurance or deductibles, states, in plain language, that if the insured finalizes a payment plan agreement within forty-five (45) days of receiving the first billing statement and substantially complies with the agreement, the out-of-network facility-based physician shall not furnish adverse information to a consumer reporting agency regarding an amount owed by the insured. For purposes of this subdivision (d)(2)(B)(v), a patient is

considered out of substantial compliance with the payment plan agreement if the payments are not made in compliance with the agreement for a period of forty-five (45) days; and

(vi) Contains a telephone number for the department and a clear and concise statement that the insured may call the department to complain about any out-of-network charges.

(3) Nothing in this subsection (d) applies to accident-only, specified disease, hospital indemnity, Medicare supplement, long-term care, or other limited benefit hospital insurance policies.

56-7-1006. Prohibition against denial of reimbursement to or discrimination against physician based on maintenance of certification or licensure.

(a) As used in this section:

(1) "Continuing medical education" means board of medical examiners or board of osteopathic examination required continued postgraduate medical education intended to provide medical professionals with knowledge of new developments in the professional's field;

(2) "Maintenance of certification" means any process requiring periodic recertification examinations or other activities to maintain specialty medical board certification;

(3) "Maintenance of licensure" means the proprietary framework for physician license renewal established through the Federation of State Medical Boards or its successor organization, which includes additional periodic testing or requirements other than continuing medical education; and

(4) "Specialty medical board certification" means certification by a board that specializes in one (1) particular area of medicine and typically requires additional examinations other than the requirements of the board of medical examiners or board of osteopathic examination to practice medicine.

(b) A health insurance entity, as defined in § 56-7-109, shall not deny reimbursement to or prevent a physician licensed pursuant to title 63, chapter 6 or 9 from participating in any of the insurance entity's provider networks based solely on a physician's decision not to participate in any form of maintenance of licensure or maintenance of certification, including basing a physician's network participation on any form of maintenance of licensure tied to maintenance of certification.

(c) A health insurance entity, as defined in § 56-7-109, shall not discriminate with respect to reimbursement levels based solely on a physician's decision not to participate in any form of maintenance of licensure or maintenance of certification, including basing a physician's reimbursement level on any form of maintenance of licensure tied to maintenance of certification.

56-7-1007. Market conduct examination of health insurance carrier for compliance with coverage requirements for mental health or alcoholism or drug dependency services. [Effective on January 1, 2019.]

(a) Whenever the commissioner performs a market conduct examination of a health insurance carrier that issues a health benefit plan under the jurisdiction of the department of commerce and insurance for compliance with § 56-7-2360,

the examination shall include, but not be limited to, the following information:

(1) A description of the process used to develop or select the medical necessity criteria for mental health or alcoholism or drug dependency benefits and the process used to develop or select the medical necessity criteria for medical and surgical benefits;

(2) Identification of all non-quantitative treatment limitations (NQTLs) that are applied to both mental health or alcoholism or drug dependency benefits and medical and surgical benefits; and

(3) The results of any analysis that may have been performed by a health insurance carrier that demonstrates that for the medical necessity criteria described in subdivision (a)(1) and for each NQTL identified in subdivision (a)(2), as written and in operation, the processes, strategies, evidentiary standards, or other factors used to apply the medical necessity criteria and each NQTL to mental health or alcoholism or drug dependency benefits are comparable to, and are applied no more stringently than, the processes, strategies, evidentiary standards, or other factors used to apply the medical necessity criteria and each NQTL, as written and in operation, to medical and surgical benefits. The results of the analysis may:

(A) Identify the factors used to determine that an NQTL will apply to a benefit, including factors that were considered but rejected;

(B) Identify and define the specific evidentiary standards used to define the factors and any other evidentiary standards relied upon in designing each NQTL;

(C) Identify and describe the methods and analyses used, including the results of any relevant analyses, to determine that the processes and strategies used to design each NQTL as written for mental health or alcoholism or drug dependency benefits are comparable to, and no more stringent than, the processes and strategies used to design each NQTL as written for medical and surgical benefits;

(D) Identify and describe the methods and analyses used, including the results of any relevant analyses, to determine that processes and strategies used to apply each NQTL in operation for mental health or alcoholism or drug dependency benefits are comparable to, and no more stringent than, the processes or strategies used to apply each NQTL in operation for medical and surgical benefits;

(E) Disclose the specific findings and conclusions reached by the health insurance carrier that the results of any relevant analyses under this subsection indicate that the health insurance carrier is in compliance with this section and the federal Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 (MHPAEA) (Pub.L. No. 110-343), and its implementing regulations, including 45 CFR 146.136 and any other applicable regulations; and

(F) Identify any other information necessary to clarify data provided in accordance with this section requested by the commissioner, including information that may be "proprietary" or have "commercial value." Any information submitted that is proprietary shall not be made a public record under title 10, chapter 7.

(b) The health insurance carrier's chief executive officer and chief medical officer shall sign a certification that affirms that the health insurance carrier has completed a comprehensive review of its administrative practices for the prior calendar year for compliance with the necessary provisions of this section

and §§ 56-7-2601 and 56-7-2602, and the MHPAEA.

(c) Separate NQTLs that apply to mental health or alcohol or drug dependency benefits but do not apply to medical and surgical benefits within any classification of benefits are not permitted.

56-7-2304. Continuation of coverage on group contracts.

The commissioner is authorized to adopt rules applicable to insurance policies and subscriber contracts provided by an insurance company or a nonprofit service corporation on a group or group-type basis establishing reasonable requirements for extension of benefits and determination of claim liability in the event of discontinuance of coverage for nonpayment of premiums or replacement of coverage by another carrier. All rules must be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, and shall provide for any notices required that notice to the group policyholder or subscriber contract holder are deemed notice to the employee, member, or subscriber. No rule shall require the extension of coverage, except as to policies or contracts issued, altered, or amended after the effective date of the rule.

56-7-2360. Coverage for mental health services. [Effective until January 1, 2019. See the version effective on January 1, 2019.]

(a)(1) In addition to any other requirement of law concerning coverage of mental health or mental illness benefits, including, but not limited to, § 56-7-2601, any group health plan issued by any entity regulated pursuant to insurance law under this title shall provide coverage for mental health services as follows:

(A)(i) As to either aggregate lifetime limits or annual limits, or both, for a group health plan providing both medical and surgical benefits and mental health benefits:

(a) If the plan does not have a limit on substantially all medical and surgical benefits, the plan may not impose the limit on mental health benefits;

(b) If the plan has a limit on substantially all medical and surgical benefits, the plan shall either include mental health benefits under the limit applied to medical and surgical benefits, or apply a separate limit to mental health benefits that is no less than the one applied to medical and surgical benefits; and

(c) If the plan has varying limits on different medical or surgical benefits, the plan shall apply an average limit to mental health benefits with the average to be computed based on the weighted average of the varying limits;

(ii) "Aggregate lifetime limit" means a dollar limitation on the total amount that may be paid for benefits under a health plan with respect to an individual or other coverage unit; and

(iii) "Annual limit" means a dollar limitation on the total amount that may be paid for benefits in a twelve-month period under a health plan with respect to an individual or other coverage unit; and

(B)(i) Any annual visit limits by a plan shall be equal to or greater than twenty (20) hospital inpatient days and twenty-five (25) outpatient or doctor visits. As an alternative to hospital inpatient days, if less costly

residential treatment, partial hospitalization, or crisis respite care for the patient is appropriate, the plan shall provide for this care at the rate of two (2) alternate care days to one (1) day of inpatient hospital treatment.

(ii) An issuer of a plan may not count toward the number of outpatient visits required to be covered under subdivision (a)(1)(B)(i) an outpatient visit for the purpose of medication management, and shall cover that outpatient visit under the same terms and conditions as it covers outpatient visits for the treatment of physical illness. Medication management shall not include services that could be billed as a therapy or consultation visit. For the purposes of this subdivision (a)(1)(B)(ii), "medication management" means pharmacologic management, including prescription, use, and review of medication with no more than minimal medical psychotherapy.

(2) The mandate to provide coverage for mental health services at the same rates and terms as coverage provided for all medical and surgical conditions under this subsection (a) shall not be applicable to services for the abuse of or dependency on alcohol or drugs.

(3) A plan may not establish a separate limitation for mental health services for out-of-pocket cost sharing that is more costly than the limitation applied to medical and surgical benefits.

(4) This subsection (a) shall not apply to group health plans issued to small employers, defined as those with from two (2) to twenty-five (25) employees.

(b) Nothing in subsection (a) shall be construed as prohibiting an employee health benefit plan, or a plan issuer offering a group health plan from utilizing managed care practices for the delivery of benefits required under this section.

(c) Nothing in this section shall limit the amounts and terms of coinsurance, copayments, deductibles, or differentials required to be paid by the enrollee.

(d) The mandate to provide coverage for mental health services shall not apply with respect to a group health plan if the application of the mandate to the plan results in an increase in the cost under the plan of more than one percent (1%). Documentation of the increase in cost shall be filed with the department after twelve (12) months of experience. If the commissioner determines that the increase in cost is a result of the requirements of this section, the commissioner or the commissioner's designee shall issue a letter to the issuer of the plan that the plan does not have to comply with the mandate set out in this section. The issuer may appeal the letter as final agency action pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(e) This section shall not apply to any individual policy issued under this title.

(f) The commissioner is authorized to promulgate rules and regulations to effectuate the purposes of this section. The rules and regulations shall be promulgated in accordance with the Uniform Administrative Procedures Act.

(g) Benefits under this section may not be denied for care for confinement provided in a hospital owned or operated by this state that is especially intended for use in the diagnosis, care and treatment of psychiatric, mental or nervous disorders.

(h) Nothing in this section shall apply to accident-only, specified disease, hospital indemnity, medicare supplement, long-term care or other limited benefit hospital insurance policies.

56-7-2360. Coverage for mental health, alcoholism, or drug dependency services. [Effective on January 1, 2019. See the version effective until January 1, 2019.]

(a)(1) As used in this section, unless the context otherwise requires:

(A) "Aggregate lifetime limit" means a dollar limitation on the total amount that may be paid for benefits under a health plan with respect to an individual or other coverage unit;

(B) "Annual limit" means a dollar limitation on the total amount that may be paid for benefits in a twelve-month period under a health plan with respect to an individual or other coverage unit;

(C) "Classification of benefits" means inpatient in-network benefits, inpatient out-of-network benefits, outpatient in-network benefits, outpatient out-of-network benefits, prescription drug benefits, and emergency care benefits. These classifications of benefits are the only classifications that may be used except that there may be sub-classifications within both outpatient classifications differentiating office visits from other outpatient items and services, including outpatient surgery, facility charges for day treatment centers, laboratory charges, and other medical items;

(D) "Financial requirement" includes deductibles, copayments, coinsurance, and out-of-pocket expenses, but excludes an aggregate lifetime limit and an annual limit;

(E) "Health benefit plan" means any hospital or medical expense policy, health, hospital, or medical service corporation contract, a policy or agreement entered into by a health insurer or a health maintenance organization contract offered by an employer, other plans administered by the state government, or any certificate issued under the policies, contracts, or plans;

(F) "Health insurance carrier" means any entity subject to the insurance laws and regulations of this state, or subject to the jurisdiction of the commissioner of commerce and insurance, that contracts with healthcare providers in connection with a plan of health insurance, health benefits, or health services;

(G) "Mental health or alcoholism or drug dependency benefits" means benefits for the treatment of any condition or disorder that involves a mental health condition or substance use disorder that falls under any of the diagnostic categories listed in the mental disorders section of the current edition of the International Classification of Disease or that is listed in the mental disorders section of the most recent version of the Diagnostic and Statistical Manual of Mental Disorders;

(H) "Non-quantitative treatment limitations," or "NQTLs," are limitations that are not expressed numerically, but otherwise limit the scope or duration of benefits for treatment. For purposes of this subdivision (a)(1)(H), fail-first or step therapy protocols do not include formulary designs that require the prescription, use, and a showing of ineffectiveness of generic drugs prior to approval of payment for the prescription of higher cost drugs. NQTLs include, but are not limited to:

(i) Medical management standards limiting or excluding benefits based on medical necessity or medical appropriateness, or based on whether the treatment is experimental or investigative;

(ii) Formulary design for prescription drugs;

(iii) Tier design for plans with multiple network tiers, including preferred providers and participating providers, and network tier design;

(iv) Standards for provider admission to participate in a network, including reimbursement rates;

(v) Plan methods for determining usual, customary, and reasonable charges;

(vi) Refusal to pay for higher-cost therapies until it can be shown that a lower-cost therapy is not effective, that are also known as fail-first policies or step therapy protocols;

(vii) Exclusions based on failure to complete a course of treatment;

(viii) Restrictions based on geographic location, facility type, provider specialty, and other criteria that limit the scope or duration of benefits for services provided under the plan or coverage;

(ix) In- and out-of-network geographic limitations;

(x) Standards for providing access to out-of-network providers;

(xi) Limitations on inpatient services for situations where the participant is a threat to self or others;

(xii) Exclusions for court-ordered and involuntary holds;

(xiii) Experimental treatment limitations;

(xiv) Service coding; and

(xv) Exclusions for services provided by clinical social workers;

(I) "Predominant" means application to more than one-half (½) of such type of limit or requirement;

(J) "Substantially all" means application to at least two-thirds (⅔) of all medical or surgical benefits in a classification; and

(K) "Treatment limitation" includes limits on the frequency of treatment, number of visits, days of coverage, or other similar limits on the scope or duration of treatment.

(2) In addition to any other requirement of law concerning coverage of mental health or mental illness benefits or alcoholism or drug dependency benefits, including, but not limited to, §§ 56-7-2601 and 56-7-2602, any individual or group health benefit plan issued by a health insurance carrier regulated pursuant to this title shall provide coverage for mental health or alcoholism or drug dependency services in compliance with the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 (MHPAEA) (Pub. L. No. 110-343) found at 42 U.S.C. § 300gg-26 and its implementing regulations found at 45 CFR § 146.136 and 45 CFR § 147.160.

(b) Nothing in subsection (a) prohibits an employee health benefit plan, or a plan issuer offering an individual or group health plan from utilizing managed care practices for the delivery of benefits required under this section, as long as that for any utilization review or benefit determination for the treatment of alcoholism or drug dependence the clinical review criteria is the most recent Treatment Criteria for Addictive, Substance-Related, and Co-Occurring Conditions established by the American Society of Addiction Medicine or other evidence-based clinical guidelines, such as those referenced by the federal substance abuse and mental health services administration (SAMHSA). No additional criteria other than in this subsection (b) may be used during utilization review or benefit determination for treatment of substance use disorders.

(c) The mandate to provide coverage for mental health services does not apply

with respect to a group health plan if the application of the mandate to the plan results in an increase in the cost under the plan of more than one percent (1%). Documentation of the increase in cost must be filed with the department after twelve (12) months of experience. If the commissioner determines that the increase in cost is a result of the requirements of this section, the commissioner or the commissioner's designee shall issue a letter to the issuer of the plan stating that the plan does not have to comply with the mandate set out in this section. The issuer may appeal the letter as final agency action pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(d) The department of commerce and insurance shall implement and enforce applicable provisions of the federal Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008, this section, and §§ 56-7-2601 and 56-7-2602, which include:

(1) Ensuring compliance by individual and group health benefit plans;

(2) Detecting possible violations of the law by individual and group health benefit plans;

(3) Accepting, evaluating, and responding to complaints regarding such violations; and

(4) Maintaining and regularly reviewing for possible parity violations a publicly available consumer complaint log regarding mental health or alcoholism or drug dependency coverage; provided, that individually identifiable information shall be excluded.

(e) Not later than January 31, 2020, the department shall issue a report to the general assembly and provide an educational presentation to the general assembly. The report and presentation shall:

(1) Discuss the methodology the department is using to check for compliance with the MHPAEA, and any federal regulations or guidance relating to the compliance and oversight of the MHPAEA, including 45 CFR 146.136;

(2) Discuss the methodology the department uses to check for compliance with this section and §§ 56-7-2601 and 56-7-2602;

(3) Identify market conduct examinations conducted or completed during the preceding twelve-month period regarding compliance with parity in mental health or alcoholism or drug dependency benefits under state and federal laws and summarize the results of such market conduct examinations. Individually identifiable information shall be excluded from the reports consistent with federal privacy protections, including, but not limited to, 42 U.S.C. § 290dd-2 and regulations found at 42 CFR § 2.1 through 42 CFR § 2.67. This discussion shall include:

(A) The number of market conduct examinations initiated and completed;

(B) The benefit classifications examined by each market conduct examination;

(C) The subject matter of each market conduct examination, including quantitative and non-quantitative treatment limitations; and

(D) A summary of the basis for the final decision rendered in each market conduct examination;

(4) Detail any educational or corrective actions the department of commerce and insurance has taken to ensure health benefit plan compliance with this section, the MHPAEA, 42 U.S.C. § 18031(j), and §§ 56-7-2601 and 56-7-2602;

(5) Detail the department's educational approaches relating to informing the public about mental health or alcoholism or drug dependence parity

protections under state and federal law; and

(6) Describe how the department examines any provider or consumer complaints related to denials or restrictions for possible violations of this section, the MHPAEA, 42 U.S.C. § 18031(j), and §§ 56-7-2601 and 56-7-2602, including complaints regarding, but not limited to:

(A) Denials of claims for residential treatment or other inpatient treatment on the grounds that such a level of care is not medically necessary;

(B) Claims for residential treatment or other inpatient treatment that were approved but for a fewer number of days than requested;

(C) Denials of claims for residential treatment or other inpatient treatment because the beneficiary had not first attempted outpatient treatment, medication, or a combination of outpatient treatment and medication;

(D) Denials of claims for medications such as buprenorphine or naltrexone on the grounds that they are not medically necessary;

(E) Step therapy requirements imposed before buprenorphine or naltrexone is approved; and

(F) Prior authorization requirements imposed on claims for buprenorphine or naltrexone, including those imposed because of safety risks associated with buprenorphine.

(f) The report issued pursuant to subsection (e) must be written in nontechnical, readily understandable language and shall be made available to the public by posting the report on the department's website and by other means as the department finds appropriate. The name and identity of the health insurance carrier must be given confidential treatment, may not be made public by the commissioner or any other person, and shall not be subject to public inspection pursuant to § 10-7-503.

(g) Benefits under this section shall not be denied for care for confinement provided in a hospital owned or operated by this state that is especially intended for use in the diagnosis, care, and treatment of psychiatric, mental, or nervous disorders.

(h) Nothing in this section applies to accident-only, specified disease, hospital indemnity, medicare supplement, long-term care, or other limited benefit hospital insurance policies.

(i) The commissioner is authorized to promulgate rules to effectuate the purposes of this section. The rules must be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(j) Nothing in this section shall be construed as requiring the disclosure of any information that would violate 42 U.S.C. § 290dd-2 and regulations found at 42 CFR § 2.1 through 42 CFR § 2.67.

56-7-2810. Guaranteed renewability of coverage for individuals.

(a) A health insurance issuer that provides individual health insurance coverage to an individual shall renew or continue in force the coverage at the option of the individual for all such coverage in effect on or after July 1, 1997, except as provided in this section.

(b) A health insurance issuer may nonrenew or discontinue health insurance coverage of an individual in the individual market based only on one (1) or more of the following:

(1) The individual has failed to pay premiums or contributions in accordance with the terms of the health insurance coverage or the issuer has not

received timely premium payments;

(2) The individual has performed an act or practice that constitutes fraud or made an intentional misrepresentation of material fact under the terms of the coverage;

(3) The issuer is ceasing to offer coverage in the individual market in accordance with subsection (c) and other applicable insurance law;

(4) In the case of a health insurance issuer that offers health insurance coverage in the market through a network plan, the individual no longer resides, lives, or works in the service area, or in an area for which the issuer is authorized to do business, but only if the coverage is terminated under this subdivision (b)(4) uniformly without regard to any health status-related factor of covered individuals; and

(5) In the case of health insurance coverage that is made available in the individual market only through one (1) or more bona fide associations, the membership of the individual in the association, on the basis of which the coverage is provided, ceases, but only if the coverage is terminated under this subdivision (b)(5) uniformly without regard to any health status-related factor of covered individuals.

(c) In any case in which an issuer decides to discontinue offering a particular type of health insurance coverage offered in the individual market, coverage of the type may be discontinued by the issuer only if:

(1) The issuer provides notice to each covered individual provided coverage of this type in the market of the discontinuation at least ninety (90) days prior to the date of the discontinuation of the coverage;

(2) The issuer offers to each individual in the individual market provided coverage of this type, the option to purchase any other individual health insurance coverage currently being offered by the issuer for individuals in the market; and

(3) In exercising the option to discontinue coverage of this type and in offering the option of coverage under subdivision (c)(2), the issuer acts uniformly without regard to any health status-related factor of enrolled individuals or individuals who may become eligible for the coverage.

(d)(1) Subject to subdivision (d)(2), in any case in which a health insurance issuer elects to discontinue offering all health insurance coverage in the individual market in this state, health insurance coverage may be discontinued by the issuer only if:

(A) The issuer provides notice to the commissioner and to each individual of the discontinuation at least one hundred eighty (180) days prior to the date of the expiration of the coverage; and

(B) All health insurance issued or delivered for issuance in this state in the market is discontinued and coverage under the health insurance coverage in the market is not renewed.

(2) In the case of a discontinuation under subdivision (d)(1)(A) in the individual market, the issuer may not provide for the issuance of any health insurance coverage in the individual market in the state during the five-year period beginning on this date of the discontinuation of the last health insurance coverage not so renewed.

(3) The commissioner may waive subdivision (d)(2) upon written request by a health insurance issuer that demonstrates to the satisfaction of the commissioner that a waiver would benefit insurance consumers in this state and would strengthen the individual market.

(e) At the time of coverage renewal, a health insurance issuer may modify

the health insurance coverage for a policy form offered to individuals in the individual market so long as the modification is consistent with state law and effective on a uniform basis among all individuals with that policy form.

(f) In applying this section in the case of health insurance coverage that is made available by a health insurance issuer in the individual market to individuals only through one (1) or more associations, a reference to an "individual" is deemed to include a reference to the association of which the individual is a member.

56-7-3113. Licensure as pharmacy benefits manager. [Effective on January 1, 2019.]

(a) No person or entity shall administer the medication or device portion of pharmacy benefits coverage provided by a covered entity or otherwise act as a pharmacy benefits manager in this state unless the person or entity has obtained licensure through the department of commerce and insurance.

(b) To obtain licensure as a pharmacy benefits manager, the person or entity must demonstrate to the department that the person or entity:

(1) Is authorized to transact business in this state;

(2) Is financially responsible, as determined by the department; and

(3) Has not had a prior license to be a pharmacy benefits manager denied for cause or revoked by the department within five (5) years of the date on which licensure is sought.

(c)(1) In addition to the showing required by subsection (b), a person or entity seeking licensure as a pharmacy benefits manager shall also provide the following information to the department:

(A) The person or entity's name, address, telephone number, email address, and website address; and

(B) If the licensure is sought for an entity, the name, address, telephone number, and email address for a contact person.

(2) Any material changes in the information described in this subsection (c) shall be filed with the department within sixty (60) days of the change.

(d) A person or entity's license as a pharmacy benefits manager shall be renewed biennially.

(e)(1) Any person or entity seeking licensure as a pharmacy benefits manager shall pay a fee in the amount of one hundred dollars ($100) to the department to obtain the license. Any person or entity seeking renewal of a license as a pharmacy benefits manager shall pay a fee in the amount of fifty dollars ($50) to renew the license.

(2) All fees paid pursuant to this section shall be used by the department for purposes of administering this section.

(f)(1) Failure to obtain licensure or renew a license pursuant to this section while acting as a pharmacy benefits manager in this state shall constitute a violation of this section and shall be punishable by a fine of not less than one hundred dollars ($100) nor more than five hundred dollars ($500).

(2) Any person or entity assessed a fine pursuant to this section or denied a license or renewal of a license may appeal the fine or denial pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

56-7-3114. Right to provide information regarding amount of insured's cost share of prescription drug.

A pharmacy or pharmacist has the right to provide an insured information

regarding the amount of the insured's cost share for a prescription drug. Neither a pharmacy nor a pharmacist shall be penalized by a pharmacy benefits manager for discussing any information described in this section or for selling a lower priced drug to the insured if one is available.

56-11-101. Short title — Definitions.

(a) This part shall be known and may be cited as the "Insurance Holding Company System Act of 1986."

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

(1) "Affiliate" of, or person "affiliated" with, a specific person, means a person that directly, or indirectly through one (1) or more intermediaries, controls, or is controlled by, or is under common control with, the person specified;

(2) "Commissioner" means the commissioner of commerce and insurance;

(3)(A) "Control" including "controlling," "controlled by" and "under common control with" means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or non-management services, or otherwise, unless the power is the result of an official position with or corporate office held by the person.

(B) "Control" shall be presumed to exist if any person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing ten percent (10%) or more of the voting securities of any other person. This presumption may be rebutted by a showing made in the manner provided by § 56-11-105(k) that control does not exist in fact. The commissioner may determine, after furnishing all persons in interest notice and opportunity to be heard and making specific findings of fact to support the determination that control exists in fact, notwithstanding the absence of a presumption to that effect;

(4) "Enterprise Risk" means any activity, circumstance, event or series of events involving one (1) or more affiliates of an insurer that, if not remedied promptly, is likely to have a material adverse effect upon the financial condition or liquidity of the insurer or its insurance holding company system as a whole, including, but not limited to, anything that would cause the insurer's Risk-Based Capital to fall into company action level as set forth in § 56-46-104 or would cause the insurer to be in hazardous financial condition as set forth in Tenn. Comp. R. & Reg. 0780-01-66, as amended;

(5) "Group-wide supervisor" means the regulatory official authorized to engage in conducting and coordinating group-wide supervision activities who is determined or acknowledged by the commissioner under § 56-11-116(d) to have sufficient significant contacts with the internationally active insurance group;

(6) "Health maintenance organization" means a health maintenance organization as defined at § 56-32-102;

(7) "Health maintenance organization holding company system" means two (2) or more affiliated persons, one (1) of which is a health maintenance organization. "Health maintenance organization holding company system" also means a corporation regulated pursuant to title 56, chapter 29, which owns or controls, either directly or indirectly, a health maintenance

organization;

(8) "Insurance holding company system" means two (2) or more affiliated persons, one (1) or more of which is an insurer;

(9) "Insurer" has the same meaning as "insurance company," as set forth in § 56-1-102, except that it does not include:

(A) Agencies, authorities or instrumentalities of the United States, its possessions and territories, the Commonwealth of Puerto Rico, the District of Columbia, or a state or political subdivision of a state;

(B) Fraternal benefit societies;

(C) Nonprofit medical and hospital service associations; or

(D) Nonprofit dental service corporations;

(10) "Internationally active insurance group" means an insurance holding company system that includes an insurer registered under § 56-11-105 and meeting the following criteria:

(A) Premiums are written in at least three (3) countries;

(B) The percentage of gross premiums written outside the United States is at least ten percent (10%) of the insurance holding company system's total gross written premiums; and

(C) Based on a three-year rolling average, the total assets of the insurance holding company system are at least fifty billion dollars ($50,000,000,000), or the total gross written premiums of the insurance holding company system are at least ten billion dollars ($10,000,000,000);

(11) "Person" means an individual, a corporation, a limited liability company, a partnership, an association, a joint stock company, a trust, an unincorporated organization, any similar entity or any combination of the foregoing acting in concert, but does not include any joint venture partnership exclusively engaged in owning, managing, leasing or developing real or tangible personal property;

(12) "Securityholder" of a specified person is one who owns any security of the person, including common stock, preferred stock, debt obligations and any other security convertible into or evidencing the right to acquire any of the foregoing;

(13) "Subsidiary" of a specified person is an affiliate controlled by the person directly or indirectly through one (1) or more intermediaries; and

(14) "Voting security" includes any security convertible into or evidencing a right to acquire a voting security.

56-11-106. Transactions within a holding company system — Standards — Dividends — Management of domestic insurers and health maintenance organizations.

(a) **Transactions Within a Holding Company System.**

(1) Transactions within an insurance or health maintenance organization holding company system, to which an insurer or health maintenance organization subject to registration is a party, shall be subject to the following standards:

(A) The terms shall be fair and reasonable;

(B) Agreements for cost sharing services and management shall include such provisions as required by rule and regulation issued by the commissioner;

(C) Charges or fees for services performed shall be reasonable;

(D) Expenses incurred and payment received shall be allocated to the insurer or health maintenance organization in conformity with customary insurance accounting practices, or, in the case of health maintenance organizations, customary accounting practices applicable to health maintenance organizations, consistently applied;

(E) The books, accounts and records of each party to all the transactions shall be so maintained as to clearly and accurately disclose the nature and details of the transactions, including the accounting information necessary to support the reasonableness of the charges or fees to the respective parties; and

(F) The insurer's surplus as regards policyholders, or the health maintenance organization's net worth, following any dividends or distributions to shareholder affiliates shall be reasonable in relation to the insurer's, or health maintenance organization's, outstanding liabilities and adequate to meet the insurer's or health maintenance organization's financial needs.

(2) The following transactions involving a domestic insurer or a health maintenance organization and any person in its insurance or health maintenance organization holding company system, including amendments or modifications of affiliate agreements previously filed pursuant to this section, which are subject to any materiality standards contained in subdivisions (a)(2)(A)-(G), may not be entered into unless the insurer or health maintenance organization has notified the commissioner in writing of its intention to enter into the transaction at least thirty (30) days prior thereto, or a shorter period that the commissioner may permit, and the commissioner has not disapproved it within the period. The notice for amendments or modifications shall include the reasons for the change and the financial impact on the domestic insurer. Informal notice shall be reported, within thirty (30) days after a termination of a previously filed agreement, to the commissioner for determination of the type of filing required, if any:

(A) Sales, purchases, exchanges, loans, extensions of credit, or investments; provided, that exchanges, loans, extensions of credit, or investments the transactions are equal to or exceed:

(i) With respect to nonlife insurers and health maintenance organizations, the lesser of three percent (3%) of the insurer's or health maintenance organization's admitted assets, or twenty-five percent (25%) of surplus as regards policyholders, or, with respect to health maintenance organizations, net worth as of December 31 next preceding; and

(ii) With respect to life insurers, three percent (3%) of the insurer's admitted assets, each as of December 31 next preceding;

(B) Loans or extensions of credit to any person who is not an affiliate, where the insurer or health maintenance organization makes the loans or extensions of credit with the agreement or understanding that the proceeds of the transactions, in whole or in substantial part, are to be used to make loans or extensions of credit to, to purchase assets of, or to make investments in, any affiliate of the insurer or health maintenance organization making the loans or extensions of credit; provided, that the transactions are equal to or exceed:

(i) With respect to nonlife insurers and health maintenance organizations, the lesser of three percent (3%) of the insurer's or health

maintenance organization's admitted assets, or twenty-five percent (25%) of surplus as regards policyholders, or, with respect to health maintenance organizations, net worth as of December 31 next preceding; and

(ii) With respect to life insurers, three percent (3%) of the insurer's admitted assets as of December 31 next preceding;

(C) Reinsurance agreements or modifications thereto, including:

(i) All reinsurance pooling agreements;

(ii) Agreements in which the reinsurance premium or a change in the insurer's or health maintenance organization's liabilities, or the projected reinsurance premium or a change in the insurer's liabilities in any of the next three (3) years, equals or exceeds five percent (5%) of the insurer's surplus as regards policyholders, or, with respect to health maintenance organizations, net worth, as of December 31 next preceding, including those agreements that may require as consideration the transfer of assets from an insurer or health maintenance organization to a non-affiliate, if an agreement or understanding exists between the insurer or health maintenance organization and non-affiliate that any portion of the assets will be transferred to one (1) or more affiliates of the insurer or health maintenance organization;

(D) All management agreements, service contracts, tax allocation agreements, guarantees and all cost-sharing arrangements;

(E) Guarantees when made by a domestic insurer or health maintenance organization; provided, however, that a guarantee which is quantifiable as to amount is not subject to the notice requirements of this paragraph unless it exceeds the lesser of one-half of one percent (0.5%) of the insurer's or health maintenance organization's admitted assets, or ten percent (10%) of surplus as regards policyholders, or with respect to health maintenance organizations, net worth, as of December 31 next preceding. Further, all guarantees which are not quantifiable as to amount are subject to the notice requirements of this subdivision (a)(2)(E);

(F) Direct or indirect acquisitions or investments in a person that controls the insurer or health maintenance organization or in an affiliate of the insurer or health maintenance organization in an amount which, together with its present holdings in such investments, exceeds two and one-half percent (2.5%) of the insurer's surplus to policyholders, or, with respect to health maintenance organizations, net worth. Direct or indirect acquisitions or investments in subsidiaries acquired pursuant to § 56-11-102 (or authorized under any other section of this title), or in non-subsidiary insurance affiliates that are subject to this part, are exempt from this requirement; and

(G) Any material transactions, specified by regulation, which the commissioner determines may adversely affect the interests of the insurer's policyholders or the health maintenance organization's enrollees or providers. Nothing in this subdivision (a)(2) shall be deemed to authorize or permit any transactions that, in the case of an insurer or health maintenance organization that is not a member of the same insurance or health maintenance organization holding company system, would be otherwise contrary to law.

(3) A domestic insurer or a health maintenance organization may not enter into transactions that are part of a plan or series of like transactions

with persons within the insurance or health maintenance organization holding company system, if the purpose of those separate transactions is to avoid the statutory threshold amount and thus avoid the review that would occur otherwise. If the commissioner determines that the separate transactions were entered into over any twelve-month period for this purpose, the commissioner may exercise the authority under § 56-11-111.

(4) The commissioner, in reviewing transactions pursuant to subdivision (a)(2), shall consider whether the transactions comply with the standards set forth in subdivision (a)(1), and whether they may adversely affect the interests of policyholders, or, in the case of health maintenance organizations, enrollees or providers.

(5) The commissioner shall be notified within thirty (30) days of any investment of the domestic insurer or health maintenance organization in any one (1) corporation if the total investment in the corporation by the insurance holding company system or health maintenance organization holding company system exceeds ten percent (10%) of the corporation's voting securities.

(b) **Dividends and Other Distributions.**

(1) No domestic insurer and no health maintenance organization shall pay an extraordinary dividend or make any other extraordinary distribution to its shareholders until:

(A) Thirty (30) days after the commissioner has received notice of the declaration thereof and has not within the period disapproved the payment; or

(B) The commissioner shall have approved the payment within the thirty-day period.

(2) For purposes of this section, an extraordinary dividend or distribution includes any dividend or distribution of cash or other property, whose fair market value together with that of other dividends or distributions made within the preceding twelve (12) months exceeds the greater of:

(A) Ten percent (10%) of the insurer's surplus as regards policyholders, or, with respect to health maintenance organizations, net worth, as of December 31 next preceding; or

(B) The net gain from operations of the insurer, if the insurer is a life insurer, or of the net income, if the insurer is not a life insurer, or a health maintenance organization, not including realized capital gains, for the twelve-month period ending December 31 next preceding, but shall not include pro rata distributions of any class of the insurer's or health maintenance organization's own securities.

(3) Notwithstanding any other law in this title, an insurer or health maintenance organization may declare an extraordinary dividend or distribution that is conditional upon the commissioner's approval thereof, and such a declaration shall confer no rights upon shareholders until:

(A) The commissioner has approved the payment of such a dividend or distribution; or

(B) The commissioner has not disapproved the payment within the thirty-day period referred to in subdivision (b)(1).

(4)(A) A domestic insurer or health maintenance organization shall pay a dividend or make a distribution to its shareholders only from the insurer's or health maintenance organization's earned surplus; provided, that the insurer or health maintenance organization may pay a dividend or make a distribution not from earned surplus if the commissioner's approval is

first received.

(B) As used in this subdivision (b)(4), "earned surplus" means unassigned surplus as reported in the insurer's or health maintenance organization's most recent financial statement.

(c) **Management of Domestic Insurers and Health Maintenance Organizations Subject to Registration.**

(1) Notwithstanding the control of a domestic insurer or any licensed health maintenance organization by any person, the officers and directors of the insurer or health maintenance organization shall not thereby be relieved of any obligation or liability to which they would otherwise be subject to by law, and the insurer or health maintenance organization shall be managed so as to assure its separate operating identity consistent with this part.

(2) Nothing in this section shall preclude a domestic insurer or any licensed health maintenance organization from having or sharing a common management or cooperative or joint use of personnel, property or services with one (1) or more other persons under arrangements meeting the standards of subdivision (a)(1).

(3) Not less than one-third (⅓) of the directors of a domestic insurer or any licensed health maintenance organization, and not less than one-third (⅓) of the members of each committee of the board of directors of any domestic insurer or health maintenance organization shall be persons who are not officers or employees of the insurer or health maintenance organization or of any entity controlling, controlled by, or under common control with the insurer or health maintenance organization and who are not beneficial owners of a controlling interest in the voting stock of the insurer or health maintenance organization or entity. At least one (1) such person must be included in any quorum for the transaction of business at any meeting of the board of directors or any committee thereof.

(4) The board of directors of a domestic insurer or any licensed health maintenance organization shall establish one (1) or more committees comprised solely of directors who are not officers or employees of the insurer or health maintenance organization or of any entity controlling, controlled by, or under common control with the insurer or health maintenance organization and who are not beneficial owners of a controlling interest in the voting stock of the insurer or health maintenance organization or any such entity. The committee or committees shall have responsibility for nominating candidates for director for election by shareholders or policyholders, evaluating the performance of officers deemed to be principal officers of the insurer or health maintenance organization and recommending to the board of directors the selection and compensation of the principal officers.

(5) Subdivisions (c)(3) and (4) shall not apply to a domestic insurer or any licensed health maintenance organization if the person controlling the insurer or health maintenance organization, such as an insurer, a health maintenance organization, a mutual insurance holding company, or a publicly held corporation, has a board of directors and committees thereof that meet the requirements of subdivisions (c)(3) and (4) with respect to such controlling entity.

(6) An insurer or health maintenance organization may make application to the commissioner for a waiver from the requirements of this subsection (c), if the insurer's or health maintenance organization's annual direct written and assumed premium, excluding premiums reinsured with the

Federal Crop Insurance Corporation and Federal Flood Program, is less than three hundred million ($300,000,000). An insurer or health maintenance organization may also make application to the commissioner for a waiver from the requirements of this subsection (c) based upon unique circumstances. The commissioner may consider various factors including, but not limited to, the type of business entity, volume of business written, availability of qualified board members, or the ownership or organizational structure of the entity.

(d) **Adequacy of Surplus.**

(1) For purposes of this part, in determining whether an insurer's surplus as regards policyholders is reasonable in relation to the insurer's outstanding liabilities and adequate to meet its financial needs, the following factors, among others, shall be considered:

(A) The size of the insurer as measured by its assets, capital and surplus, reserves, premium writings, insurance in force and other appropriate criteria;

(B) The extent to which the insurer's business is diversified among the several lines of insurance;

(C) The number and size of risks insured in each line of business;

(D) The extent of the geographical dispersion of the insurer's insured risks;

(E) The nature and extent of the insurer's reinsurance program;

(F) The quality, diversification and liquidity of the insurer's investment portfolio;

(G) The recent past and projected future trend in the size of the insurer's investment portfolio;

(H) The surplus as regards policyholders maintained by other comparable insurers;

(I) The adequacy of the insurer's reserves; and

(J) The quality and liquidity of investments in affiliates. The commissioner may treat any such investment as a disallowed asset for purposes of determining the adequacy of surplus as regards policyholders whenever in the commissioner's judgment the investment so warrants.

(2) Subdivisions (d)(1)(A)-(J) shall also apply to health maintenance organizations, to the extent appropriate.

56-11-108. Confidentiality of investigations and examinations.

(a) Documents, materials, or other information in the possession or control of the department that are obtained by or disclosed to the commissioner or any other person in the course of an examination or investigation made pursuant to § 56-11-107, and all information reported or provided to the department pursuant to §§ 56-11-103(b)(13)-(15), 56-11-105, 56-11-106, and 56-11-116(d), are confidential by law and privileged, are not subject to § 10-7-503 or § 56-1-602, are not subject to subpoena, and are not subject to discovery or admissible in evidence in any private civil action. However, the commissioner is authorized to use the documents, materials, or other information in the furtherance of any regulatory or legal action brought as a part of the commissioner's official duties. The commissioner shall not otherwise make the documents, materials, or other information public without the prior written consent of the insurer or health maintenance organization to which it pertains

unless the commissioner, after giving the insurer or health maintenance organization and its affiliates who would be affected thereby notice and opportunity to be heard, determines that the interest of policyholders, enrollees, providers, shareholders, or the public will be served by the publication thereof, in which event the commissioner may publish all or any part thereof, in the manner the commissioner may deem appropriate.

(b) Neither the commissioner nor any person who received documents, materials or other information while acting under the authority of the commissioner or with whom such documents, materials or other information are shared pursuant to this part shall be permitted or required to testify in any private civil action concerning any confidential documents, materials, or information subject to subsection (a).

(c) In order to assist in the performance of the commissioner's duties, the commissioner:

(1) May share documents, materials or other information, including the confidential and privileged documents, materials or information subject to subsection (a), with other state, federal and international regulatory agencies, with the National Association of Insurance Commissioners (NAIC) and its affiliates and subsidiaries, and with state, federal, and international law enforcement authorities, including members of any supervisory college described in § 56-11-116; provided, that the recipient agrees in writing to maintain the confidentiality and privileged status of the document, material or other information, and has verified in writing the legal authority to maintain confidentiality.

(2) Notwithstanding subdivision (c)(1), may only share confidential and privileged documents, material, or information reported pursuant to § 56-11-105(*l*) with commissioners of states having statutes or regulations substantially similar to subsection (a) and who have agreed in writing not to disclose such information;

(3) May receive documents, materials or information, including otherwise confidential and privileged documents, materials or information from the NAIC and its affiliates and subsidiaries and from regulatory and law enforcement officials of other foreign or domestic jurisdictions, and shall maintain as confidential or privileged any document, material or information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material or information; and

(4) Shall enter into written agreements with the NAIC governing sharing and use of information provided pursuant to this part consistent with this subsection (c) that shall:

(A) Specify procedures and protocols regarding the confidentiality and security of information shared with the NAIC and its affiliates and subsidiaries pursuant to this part, including procedures and protocols for sharing by the NAIC with other state, federal or international regulators;

(B) Specify that ownership of information shared with the NAIC and its affiliates and subsidiaries pursuant to this part remains with the commissioner and the NAIC's use of the information is subject to the direction of the commissioner;

(C) Require prompt notice to be given to an insurer whose confidential information in the possession of the NAIC pursuant to this part is subject to a request or subpoena to the NAIC for disclosure or production; and

(D) Require the NAIC and its affiliates and subsidiaries to consent to intervention by an insurer in any judicial or administrative action in which the NAIC and its affiliates and subsidiaries may be required to disclose confidential information about the insurer shared with the NAIC and its affiliates and subsidiaries pursuant to this part.

(d) The sharing of information by the commissioner pursuant to this part shall not constitute a delegation of regulatory authority or rulemaking, and the commissioner is solely responsible for the administration, execution and enforcement of this part.

(e) No waiver of any applicable privilege or claim of confidentiality in the documents, materials or information shall occur as a result of disclosure to the commissioner under this section or as a result of sharing as authorized in subsection (c).

(f) Documents, materials or other information in the possession or control of the NAIC pursuant to this part shall be confidential by law and privileged, shall not be subject to § 10-7-503 or § 56-1-602, shall not be subject to subpoena, and shall not be subject to discovery or admissible in evidence in any private civil action.

56-11-116. Supervisory colleges.

(a) **Power of Commissioner.** With respect to any insurer or health maintenance organization registered under § 56-11-105, and in accordance with subsection (c), the commissioner shall also have the power to participate in a supervisory college for any domestic insurer or health maintenance organization that is part of an insurance holding company system with international operations in order to determine compliance by the insurer or health maintenance organization with this title. The powers of the commissioner with respect to supervisory colleges include, but are not limited to, the following:

(1) Initiating the establishment of a supervisory college;

(2) Clarifying the membership and participation of other supervisors in the supervisory college;

(3) Clarifying the functions of the supervisory college and the role of other regulators, including the establishment of a group-wide supervisor;

(4) Coordinating the ongoing activities of the supervisory college, including planning meetings, supervisory activities, and processes for information sharing; and

(5) Establishing a crisis management plan.

(b) **Expenses.**

(1) Each registered insurer or health maintenance organization subject to this section shall be liable for and shall pay the reasonable expenses of the commissioner's participation in a supervisory college in accordance with subsection (c), including reasonable travel expenses.

(2) For purposes of this section, a supervisory college may be convened as either a temporary or permanent forum for communication and cooperation between the regulators charged with the supervision of the insurer or health maintenance organization or its affiliates, and the commissioner may establish a regular assessment to the insurer or health maintenance organization for the payment of these expenses.

(c) **Supervisory College.** In order to assess the business strategy, financial

position, legal and regulatory position, risk exposure, risk management and governance processes, and as part of the examination of individual insurers in accordance with § 56-11-107, the commissioner may participate in a supervisory college with other regulators charged with supervision of the insurer or health maintenance organization or its affiliates, including other state, federal and international regulatory agencies. The commissioner may enter into agreements in accordance with § 56-11-108(c) providing the basis for cooperation between the commissioner and the other regulatory agencies, and the activities of the supervisory college. Nothing in this section shall delegate to the supervisory college the authority of the commissioner to regulate or supervise the insurer or its affiliates within its jurisdiction.

(d) **Group-Wide Supervision of Internationally Active Insurance Groups.**

(1)(A) The commissioner is authorized to act as the group-wide supervisor for any internationally active insurance group in accordance with this section. However, the commissioner may also acknowledge that another regulatory official shall serve as the group-wide supervisor if the internationally active insurance group:

(i) Does not have substantial insurance operations in the United States;

(ii) Has substantial insurance operations in the United States, but not in this state; or

(iii) Has substantial insurance operations in the United States and this state, but the commissioner has determined pursuant to the factors set forth in subdivisions (d)(2) and (6) that the other regulatory official is the appropriate group-wide supervisor.

(B) An insurance holding company system that does not otherwise qualify as an internationally active insurance group may request that the commissioner make a determination or acknowledgment as to a group-wide supervisor pursuant to this section.

(2)(A) In cooperation with other state, federal, and international regulatory agencies, the commissioner shall identify a single group-wide supervisor for an internationally active insurance group. The commissioner may determine that the commissioner is the appropriate group-wide supervisor for an internationally active insurance group that conducts substantial insurance operations concentrated in this state, or the commissioner may acknowledge that a regulatory official from another jurisdiction is the appropriate group-wide supervisor for the internationally active insurance group. The commissioner shall consider the following factors when making a determination or acknowledgement under this subsection (d):

(i) The place of domicile of the insurers within the internationally active insurance group that hold the largest share of the group's written premiums, assets, or liabilities;

(ii) The place of domicile of the top-tiered insurer or insurers in the insurance holding company system of the internationally active insurance group;

(iii) The location of the executive offices or largest operational offices of the internationally active insurance group;

(iv) Whether another regulatory official is acting or is seeking to act as the group-wide supervisor under a regulatory system that the commissioner determines to be:

(a) Substantially similar to the system of regulation provided under the laws of this state; or

(b) Otherwise sufficient in terms of providing for group-wide supervision, enterprise risk analysis, and cooperation with other regulatory officials; and

(v) Whether another regulatory official acting or seeking to act as the group-wide supervisor provides the commissioner with reasonably reciprocal recognition and cooperation.

(B) However, a regulatory official identified under this section as the group-wide supervisor may determine that it is appropriate to acknowledge another supervisor to serve as the group-wide supervisor. The acknowledgement of the group-wide supervisor must be made after consideration of the factors listed in subdivisions (d)(2)(A)(i)-(v), and must be made in cooperation with and subject to the acknowledgement of other regulatory officials involved with the supervision of members of the internationally active insurance group, and in consultation with the internationally active insurance group.

(3) Notwithstanding any other law, when another regulatory official is acting as the group-wide supervisor of an internationally active insurance group, the commissioner shall acknowledge that regulatory official as the group-wide supervisor. However, the commissioner shall make a determination or acknowledgement as to the appropriate group-wide supervisor for the internationally active insurance group pursuant to subdivision (d)(2) if a material change in the internationally active insurance group results in:

(A) The internationally active insurance group's insurers domiciled in this state holding the largest share of the group's premiums, assets, or liabilities; or

(B) This state being the place of domicile of the top-tiered insurer or insurers in the insurance holding company system of the internationally active insurance group.

(4) Pursuant to § 56-11-107, the commissioner is authorized to collect from any insurer registered pursuant to § 56-11-105 all information necessary to determine whether the commissioner may act as the group-wide supervisor of an internationally active insurance group or if the commissioner may acknowledge another regulatory official to act as the group-wide supervisor. Prior to issuing a determination that an internationally active insurance group is subject to group-wide supervision by the commissioner, the commissioner shall notify the insurer registered pursuant to § 56-11-105 and the ultimate controlling person within the internationally active insurance group. The internationally active insurance group has not less than thirty (30) days to provide the commissioner with additional information pertinent to the pending determination. The commissioner shall publish on the website of the department the identity of internationally active insurance groups that the commissioner has determined are subject to group-wide supervision by the commissioner.

(5) If the commissioner is the group-wide supervisor for an internationally active insurance group, the commissioner is authorized to:

(A) Assess the enterprise risks within the internationally active insurance group to ensure that:

(i) The material financial condition and liquidity risks to the members of the internationally active insurance group that are engaged in

the business of insurance are identified by management; and

(ii) Reasonable and effective mitigation measures are in place;

(B) Request, from any member of an internationally active insurance group subject to the commissioner's supervision, information necessary and appropriate to assess enterprise risk, including, but not limited to, information about the members of the internationally active insurance group regarding:

(i) Governance, risk assessment, and management;

(ii) Capital adequacy; and

(iii) Material intercompany transactions;

(C) Coordinate and, through the authority of the regulatory officials of the jurisdictions where members of the internationally active insurance group are domiciled, compel development and implementation of reasonable measures designed to ensure that the internationally active insurance group is able to timely recognize and mitigate enterprise risks to members of the internationally active insurance group that are engaged in the business of insurance;

(D) Communicate with other state, federal, or international regulatory agencies for members within the internationally active insurance group and share relevant information subject to the confidentiality provisions of § 56-11-108, through supervisory colleges as set forth in this section, or otherwise;

(E) Enter into agreements with or obtain documentation from any insurer registered under § 56-11-105, any member of the internationally active insurance group, and any other state, federal, or international regulatory agencies for members of the internationally active insurance group, providing the basis for or otherwise clarifying the commissioner's role as group-wide supervisor, including provisions for resolving disputes with other regulatory officials. The agreements or documentation do not serve as evidence in any proceeding that any insurer or person with an insurance holding company system not domiciled or incorporated in this state is doing business in this state or is otherwise subject to jurisdiction in this state; and

(F) Engage in other group-wide supervision activities consistent with the authority and purposes enumerated in this section and considered necessary by the commissioner.

(6) If the commissioner acknowledges that another regulatory official from a jurisdiction that is not accredited by the National Association of Insurance Commissioners is the group-wide supervisor, the commissioner is authorized to reasonably cooperate, through supervisory colleges or otherwise, with group-wide supervision undertaken by the group-wide supervisor if:

(A) The commissioner's cooperation complies with the laws of this state; and

(B) The regulatory official acknowledged as the group-wide supervisor also recognizes and cooperates with the commissioner's activities as a group-wide supervisor for other internationally active insurance groups where applicable. Where such recognition and cooperation is not reasonably reciprocal, the commissioner is authorized to refuse recognition and cooperation.

(7) The commissioner is authorized to enter into agreements with or obtain documentation from any insurer registered under § 56-11-105, any

affiliate of the insurer, and other state, federal, or international regulatory agencies for members of the internationally active insurance group that provide the basis for or otherwise clarify a regulatory official's role as group-wide supervisor.

(8) The commissioner may promulgate rules necessary for the administration of this section. All rules must be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(9) A registered insurer subject to this section is liable for and shall pay the reasonable expenses of the commissioner's participation in the administration of this section, including the engagement of attorneys, actuaries, and any other professionals, and all reasonable travel expenses.

56-14-104. Surplus lines agent's license.

(a) The commissioner may issue a surplus lines license to any agent licensed pursuant to chapter 6 of this title. Such license shall grant the agent authority to procure the kinds of insurance provided for in this chapter from unauthorized companies in this state under the conditions prescribed in this chapter.

(b) Every license issued pursuant to this section shall be for a twenty-four month term. A license fee in the amount of one hundred and twenty dollars ($120) shall be paid to the commissioner in advance of issuance or renewal of a license. Licenses expiring on December 31, 2011, shall be extended until the next scheduled renewal of a producer's license issued under chapter 6 of this title and may be renewed biennially thereafter. New licenses issued on or after January 1, 2012, may be renewed for ensuing periods of twenty-four (24) months expiring on the last day of the producer's birth month.

(c) Before the commissioner may issue or renew a license, the agent seeking licensure or renewal of a license shall file an application in a form that the commissioner prescribes.

(d) Before a license is issued, the applicant shall hold a valid license from the department authorizing the applicant to write the coverages provided for in this chapter with a company licensed to transact business in this state. The commissioner may participate in the NAIC producer licensing database.

(e) An agent licensed pursuant to this section may accept insurance provided for in this chapter from any insurance producer licensed pursuant to chapter 6 of this title and place that insurance with an eligible surplus lines insurer licensed pursuant to this chapter. The agent may compensate the insurance producer according to § 56-14-115.

56-14-108. Eligibility of surplus lines insurers.

(a) An insurer shall not engage in the transaction of insurance unless authorized to do so pursuant to a valid license, exempted by this chapter or otherwise exempted by the insurance laws of this state.

(b) A person who does not have a valid license as required by § 56-14-104 shall not engage in the transaction of insurance or act in this state directly as an agent for a nonadmitted insurer in the procurement of insurance, or renewals of insurance.

(c) A person who represents or aids a nonadmitted insurer in violation of this section shall be subject to the penalties set forth in § 56-14-117. No insurance contract entered into in violation of this section shall preclude the insured from enforcing the insured's rights under the contract in accordance

with the terms and provisions of the contract of insurance and the laws of this state, to the same degree those rights would have been enforceable had the contract been lawfully procured.

(d) This section shall not apply to a person, properly licensed as an agent or broker in this state who, for a fee and pursuant to a written agreement, is engaged solely to offer the insured advice, counsel or opinion, or service with respect to the benefits, advantages or disadvantages promised under any proposed or in-force policy of insurance if the person does not, directly or indirectly, participate in the solicitation, negotiation, or procurement of insurance on behalf of the insured.

(e) This section shall not apply to a person acting in material compliance with the insurance laws of this state in the placement of the types of insurance identified in subdivisions (e)(1)–(5):

(1) Surplus lines insurance as provided in § 56-14-103. For the purposes of this subsection (e), a license shall be deemed to be in material compliance with the insurance laws of this state, unless the licensee committed a violation of § 56-14-103 that proximately caused loss to the insured;

(2) Transactions for which a certificate of authority to do business is not required of an insurer under the insurance laws of this state;

(3) Reinsurance, unless the commissioner waives the requirements of this subdivision (e)(3):

(A) The assuming insurer is authorized to engage in an insurance or reinsurance business by its domiciliary jurisdiction and is authorized to write the type of reinsurance in its domiciliary jurisdiction; and

(B) The assuming insurer satisfies all legal requirements for such reinsurance in the state of domicile of the ceding insurer;

(4) The property and operation of railroads or aircraft engaged in interstate or foreign commerce, wet marine, and transportation insurance; and

(5) Transactions subsequent to issuance of a policy not covering properties risks or exposures located, or to be performed in this state at the time of issuance, and lawfully solicited, written or delivered outside this state.

56-14-115. Commissions.

Agents licensed in accordance with this chapter shall not pay the whole or any part of the commission on surplus lines insurance to any person, except that the commissions may be shared or divided with any other person licensed by the commissioner as a surplus lines agent or licensed pursuant to chapter 6 of this title.

56-30-135. Provision of insurance plans for vision services.

Notwithstanding any other law to the contrary, subject to approval by the commissioner, a nonprofit dental service corporation only providing dental plans and policies in this state has the authority to provide plans and polices for vision services in this state in the same manner as nonprofit corporations organized under chapter 27, 28, or 29 of this title, or an insurance company properly qualified in this state to write accident, health, or disability insurance. In order for a nonprofit dental service corporation to provide plans and policies for vision services in this state, the nonprofit dental service corporation must not provide vision services in any other state and must comply with §§ 56-31-111 — 56-31-118, 56-31-121, and 56-31-123 – 56-31-129.

56-31-106. Restrictions on right to establish and operate plan.

It is unlawful for any person except a vision service plan corporation, incorporated in accordance with this chapter, and operating in accordance with authority from the commissioner, or a nonprofit corporation organized under chapter 27, 28, 29, or 30 of this title, or an insurance company properly qualified in this state to write accident, health or disability insurance, to establish, maintain or operate a vision service plan, or to solicit subscribers to or enter into contracts with respect to a vision service plan.

56-35-115. [Repealed.]

56-37-103. License required — Renewal — Fees — Disclosure — Rules and regulations. [Effective until April 1, 2019. See the version effective on April 1, 2019.]

(a) No person shall engage in the business of a premium finance company in this state without first having obtained a license as a premium finance company from the commissioner.

(b)(1) Licenses issued pursuant to this chapter shall expire on March 31. A license may be renewed for the ensuing twelve-month period upon application by the license holder showing continued compliance with the requirements of § 56-37-104, and payment of the nonrefundable supervision fee, as provided in § 45-1-118(i). The supervision fee shall be applicable to each location. A licensee making timely and complete application and payment for renewal of its license shall be permitted to continue to operate under its existing license until its application is approved or denied. The completed renewal application and the payment of the annual supervision fee shall be sent to the department on or before March 1 of each year. Licenses issued under the former provisions of this chapter shall instead expire on March 31, 2016.

(2) A licensee submitting a renewal application pursuant to this chapter for a license expiring on March 31, 2019, must pay the supervision fee as provided in § 45-1-118(i) for each location. The completed renewal application and payment must be sent to the department on or before March 1, 2019. A renewed license issued under this chapter with a beginning effective date of April 1, 2019, expires on December 31, 2019.

(c) The commissioner has the authority, at any time, to require the applicant to disclose fully the identity of all stockholders, partners, officers, and employees, and has discretion to refuse to issue or renew a license in the name of any firm, partnership or corporation if not satisfied that any officer, employee, stockholder or partner thereof who may materially influence the applicant's conduct meets the standards of this chapter.

(d) The commissioner is authorized to promulgate rules and regulations to effectuate the purposes of this chapter. The rules and regulations shall be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(e) The commissioner may employ persons as necessary to examine or investigate and make reports on alleged violations of this chapter or compliance with the other provisions of this chapter. The costs for an examination or investigation of licensees shall be assessed pursuant to § 45-1-118(i). An

unlicensed person subject to the licensing requirements of this chapter, who is examined or investigated in accordance with this chapter, shall pay to the commissioner the reasonable and actual expenses of the investigation or examination.

(f) The commissioner may establish a biennial license arrangement for the filing of the application for licensure renewal, but in no case shall the supervision fee be payable for more than one (1) year at a time.

56-37-103. License required — Renewal — Fees — Disclosure — Rules and regulations. [Effective on April 1, 2019. See the version effective until April 1, 2019.]

(a) No person shall engage in the business of a premium finance company in this state without first having obtained a license as a premium finance company from the commissioner.

(b)(1) Licenses issued pursuant to this chapter expire on December 31. A license may be renewed for the ensuing twelve-month period upon application by the license holder showing continued compliance with the requirements of this section and payment of the nonrefundable supervision fee, as provided in § 45-1-118(i). The supervision fee is applicable to each location. A licensee making timely and complete application for renewal of its license may continue to operate under its existing license until its application is approved or denied. The completed renewal application and the payment of the annual supervision fee must be sent to the department on or before December 31, but no earlier than November 1, of each year.

(2) A licensee submitting a renewal application pursuant to this chapter for a license expiring on March 31, 2019, must pay the supervision fee as provided in § 45-1-118(i) for each location. The completed renewal application and payment must be sent to the department on or before March 1, 2019. A renewed license issued under this chapter with a beginning effective date of April 1, 2019, expires on December 31, 2019.

(c) The commissioner has the authority, at any time, to require the applicant to disclose fully the identity of all stockholders, partners, officers, and employees, and has discretion to refuse to issue or renew a license in the name of any firm, partnership or corporation if not satisfied that any officer, employee, stockholder or partner thereof who may materially influence the applicant's conduct meets the standards of this chapter.

(d) The commissioner is authorized to promulgate rules and regulations to effectuate the purposes of this chapter. The rules and regulations shall be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(e) The commissioner may employ persons as necessary to examine or investigate and make reports on alleged violations of this chapter or compliance with the other provisions of this chapter. The costs for an examination or investigation of licensees shall be assessed pursuant to § 45-1-118(i). An unlicensed person subject to the licensing requirements of this chapter, who is examined or investigated in accordance with this chapter, shall pay to the commissioner the reasonable and actual expenses of the investigation or examination.

(f) The commissioner may establish a biennial license arrangement for the filing of the application for licensure renewal, but in no case shall the supervision fee be payable for more than one (1) year at a time.

56-37-116. Licensing through multi-state automated licensing system.

(a) In addition to any other powers imposed upon the commissioner by law, the commissioner is authorized to require persons subject to this chapter to be licensed through a multi-state automated licensing system. Pursuant to this authority, the commissioner may:

(1) Promulgate any rules reasonably necessary for participation in, transition to, or operation of a multi-state automated licensing system;

(2) Establish relationships or enter into agreements reasonably necessary for participation in, transition to, or operation of a multi-state automated licensing system. The agreements may include, but are not limited to, operating agreements, information sharing agreements, interstate cooperative agreements, and technology licensing agreements;

(3) Require that applications for licensing under this chapter and renewals of such licenses be filed with a multi-state automated licensing system;

(4) Require that any fees required to be paid under this chapter be paid through a multi-state automated licensing system;

(5) Establish deadlines for transitioning licenses to a multi-state automated licensing system. The commissioner may deny any applications or renewal applications not filed with a multi-state automated licensing system after the deadlines have passed, notwithstanding any other deadlines established in this chapter. The commissioner shall provide reasonable notice of any transition deadlines to licensees; and

(6) Take such further actions as are reasonably necessary to give effect to this section.

(b) Nothing in this section authorizes the commissioner to require a person who is not subject to this chapter to submit information to, or participate in, a multi-state automated licensing system.

(c) Notwithstanding any other provision of this section, the commissioner retains full authority and discretion to license persons under this chapter and to enforce this chapter. Nothing in this section reduces or derogates that authority and discretion.

(d) Applicants for and holders of licenses issued under this chapter must pay all costs associated with submitting an application or transitioning a license to a multi-state automated licensing system, as well as all costs associated with maintaining and renewing any license issued by the commissioner on a multi-state automated licensing system.

56-37-117. Agent for channeling information.

The commissioner is authorized to use a multi-state automated licensing system as an agent for channeling information, whether criminal or noncriminal in nature, and whether derived from or distributed to the United States department of justice, any other state or federal governmental agency, or any other source that the commissioner is authorized to request or distribute under this chapter.

56-37-118. Privacy or confidentiality of shared information.

In order to promote more effective regulation and reduce regulatory burden through supervisory information sharing:

(1) The requirements under any federal or state law regarding the privacy or confidentiality of any information or material provided to a multi-state

automated licensing system, and any privilege arising under federal or state law, including the rules of any federal or state court, with respect to such information or material, continue to apply to the information or material after it has been disclosed to a multi-state automated licensing system. The information or material may be shared with all state and federal regulatory officials with premium finance company oversight authority without the loss of privilege or confidentiality protections provided by federal or state law, including the protection available under § 45-1-120;

(2) For purposes of subdivision (1), the commissioner may enter into agreements or sharing agreements with other governmental agencies, the Conference of State Bank Supervisors, or other associations representing governmental agencies, as established by rule, regulation, or order of the commissioner;

(3) Information or material that is subject to a privilege or confidentiality protection under subdivision (1) shall not be subject to:

(A) Disclosure under any federal or state law governing disclosure to the public of information held by an officer or agency of the federal government or the respective state; or

(B) Subpoena or discovery or admission into evidence in any private civil action or administrative process, unless the person to whom such information or material pertains, in the person's discretion, waives any applicable privilege held by a multi-state automated licensing system, in whole or in part;

(4) This section supersedes any inconsistent provisions of title 10, chapter 7, part 5, pertaining to the records open to public inspection; and

(5) This section does not apply with respect to information or material relating to publicly adjudicated disciplinary and enforcement actions against persons subject to this chapter that is included in a multi-state automated licensing system for access by the public.

57-1-103. Terms — Vacancy — Removal — Compensation — Attendance.

(a) The three (3) members of the commission appointed by the governor must be appointed for terms concurrent with the term of the governor. In the event a vacancy occurs, the governor shall appoint a person to fill the vacancy for the unexpired term.

(b) The commissioners serve at the pleasure of the governor and are subject to removal by the governor at any time.

(c) Each member of the commission must receive five hundred dollars ($500) for each meeting of the commission that the member attends. The members of the commission must likewise be reimbursed for their actual and necessary expenses incurred in connection with their official duties. All reimbursement for travel expenses must be in accordance with the comprehensive travel regulations as promulgated by the department of finance and administration and approved by the attorney general and reporter.

(d)(1) A member of the commission who misses more than fifty percent (50%) of the scheduled meetings in a calendar year must be removed as a member of the commission.

(2) The chair of the commission shall promptly notify the governor of any member who fails to satisfy the attendance requirement as prescribed in subdivision (d)(1).

57-2-103. Manufacturing of intoxicating liquors — Petition — Election.

(a) The county legislative body of any county shall have the right and power, and such county authorities shall have the duty, to call and direct the county election commission to hold an election at any time, upon the filing and presentation of a petition bearing the genuine signatures of ten percent (10%) or more of the qualified voters of such county, based upon the number of votes cast in the last preceding presidential election in such county. Such petition shall be addressed to the county legislative body, and shall contain such language as to request, or to call upon the county legislative body, to call an election of the qualified voters of the county upon the question of permitting and legalizing the manufacture of intoxicating liquors and other intoxicating drinks within the boundaries of the county.

(b) Upon the adoption of a motion or resolution by the county legislative body directing the holding of an election, the county clerk shall file a certified copy of the motion or resolution with the county election commission.

(c) If a majority of the qualified votes cast in such election, in a county so holding an election, favors the manufacture of intoxicating liquors or other intoxicating drinks, as herein provided, in that event, it shall be lawful to manufacture intoxicating liquors and/or intoxicating drinks within the boundaries of such county.

(d)(1) Notwithstanding subsections (a)-(c), it shall be lawful to manufacture intoxicating liquors or intoxicating drinks, or both, within the boundaries of:

(A) A municipality if both retail package sales and consumption of alcoholic beverages on the premises have been approved through referendum of voters within such municipality;

(B) A municipality that has approved consumption of alcoholic beverages on the premises within the municipality by local option election and that is located in a county having a population of not less than forty-eight thousand five hundred (48,500) and not more than forty-eight thousand six hundred (48,600), according to the 2010 federal census or any subsequent federal census;

(C) The unincorporated areas of a county, or a municipality which has a population of less than one thousand (1,000) persons in such county, if any jurisdiction located within such county has approved retail package sales through referendum of voters and any jurisdiction located within such county has approved consumption of alcoholic beverages on the premises through referendum of voters or if the county is included in the Tennessee River resort district as defined in § 57-4-102 and retail package sales have been approved through referendum by the voters in any jurisdiction within such county;

(D) Any municipality authorized under § 57-4-102(27) to allow facilities or establishments in such municipality to sell alcoholic beverages or wine for on premises consumption;

(E) Any county or municipality where it was lawful to have manufacturing of intoxicating liquors or intoxicating drinks, or both under this subsection (d) as it read prior to July 1, 2013; or

(F) Any county that has at least three (3) establishments, located in such county or in any municipality in such county, licensed under § 57-4-102(27) to sell alcoholic beverages for on-premises consumption if such county was included in this subsection (d) as it read prior to July 1,

2013.

(2)(A) Notwithstanding subdivision (d)(1), the county legislative body of any such county may adopt a resolution to remove the unincorporated areas of the county from the application of this subsection (d) subject to the restrictions in subdivision (d)(2)(B). The county mayor shall notify the alcoholic beverage commission if such action is taken and approved.

(B) Such action may be taken by the county legislative body pursuant to subdivision (d)(2)(A) until a written notification is filed with the county mayor by any person as an official notice that the person intends to pursue all lawful avenues to manufacture intoxicating liquors or intoxicating drinks, or both, within the unincorporated areas of the county. Once the notice is filed, no action may be taken by the county legislative body unless such interest is withdrawn or the person's application to manufacture such intoxicating liquors or intoxicating drinks, or both, is denied by the state or federal government. A written notification as described pursuant to this subdivision (d)(2)(B) may not be filed with the county mayor until at least forty-five (45) days after July 1, 2013.

(C) If a county adopts a resolution pursuant to subdivision (d)(2)(A), the county may at a later date adopt a resolution reversing such action. The county mayor shall notify the alcoholic beverage commission if such action is taken and approved.

(3)(A) Notwithstanding subdivision (d)(1), the legislative body of any municipality may adopt a resolution to remove the municipality from the application of this subsection (d) subject to the restrictions in subdivision (d)(3)(B). The legislative body of the municipality shall notify the alcoholic beverage commission if such action is taken and approved.

(B) Such action may be taken by the legislative body of the municipality pursuant to subdivision (d)(3)(A) until a written notification is filed with the legislative body of the municipality by any person as an official notice that the person intends to pursue all lawful avenues to manufacture intoxicating liquors or intoxicating drinks, or both, within the boundaries of the municipality. Once the notice is filed, no action may be taken by the legislative body of the municipality unless such interest is withdrawn or the person's application to manufacture such intoxicating liquors or intoxicating drinks, or both, is denied by the state or federal government. A written notification as described pursuant to this subdivision (d)(3)(B) may not be filed with the legislative body of the municipality until at least forty-five (45) days after July 1, 2013.

(C) If a municipality adopts a resolution pursuant to subdivision (d)(3)(A), the municipality may at a later date adopt a resolution reversing such action. The legislative body of the municipality shall notify the alcoholic beverage commission if such action is taken and approved.

(4) If a manufacturer that has been issued a license pursuant to this subsection (d) is also selling the manufacturer's alcoholic beverages or products at retail and the manufacturer is located in a jurisdiction that pursuant to § 57-5-105 has established a distance requirement that restricts the storage, sale or manufacture of beer from places of public gatherings or in a municipality or Class B county that pursuant to § 57-5-106 has adopted proper ordinances governing the storage, sale, manufacture and/or distribution of beer within its jurisdictional boundary, then any distance requirement related to a building used for religious purposes or a

building used as an elementary or secondary school in effect in that jurisdiction shall apply to the building used for the retail sale of the manufacturer's alcoholic beverages or products containing alcohol. The measurement shall be a building-to-building measurement.

(5) Notwithstanding subsections (a)-(c) and subdivision (d)(1), it shall be lawful to manufacture intoxicating liquors or intoxicating drinks, or both, on property that is listed on the National Register of Historic Places and where intoxicating liquors or intoxicating drinks, or both, were previously distilled on such property, or approximately on such property.

(6) A municipality as described in § 57-4-102(27)(B) may adopt an ordinance imposing a minimum distance, not to exceed one thousand feet (1,000′), between distilleries manufacturing distilled spirits; provided, that the ordinance shall not apply to or affect any licensed distillery in operation and open to the public prior to April 12, 2016. A distillery that is exempt from an ordinance adopted under this subdivision (d)(6) shall remain exempt from any ordinance adopted under this subdivision (d)(6) upon the transfer of any ownership interest in the distillery to a successor in interest.

(e) Any manufacturer's license issued pursuant to subsection (c) or (d) shall comply with § 57-3-202.

(f)(1) Notwithstanding subsections (a)-(c), it shall be lawful to manufacture high alcohol content beer as defined in § 57-3-101(a) within the boundaries of:

(A) A municipality if both retail package sales and consumption of alcoholic beverages on the premises have been approved through voter referendum of voters within such municipality; or

(B) The unincorporated areas of a county if any jurisdiction located within such county has approved retail package sales through referendum of voters and any jurisdiction located within such county has approved consumption of alcoholic beverages on the premises through referendum of voters or if the county is included in the Tennessee River resort district as defined in § 57-4-102 and retail package sales have been approved through voter referendum in any jurisdiction within the county.

(2) Any manufacturer authorized pursuant to subdivision (f)(1) must also hold a brewer's notice approved by the United States department of the treasury, alcohol and tobacco tax and trade bureau, or any successor federal beer manufacturing permit granted by a federal bureau having jurisdiction over the manufacture of beer.

(3) In all jurisdictions not meeting the requirements of subdivision (f)(1), it shall be lawful to manufacture high alcohol content beer as defined in § 57-3-101(a) within the boundaries of a municipality or in the unincorporated area of such county upon such jurisdiction meeting the requirements of subsections (a)-(c), and if the manufacturer also holds a brewer's notice approved by the United States department of the treasury, alcohol and tobacco tax and trade bureau, or any successor federal beer manufacturing permit granted by a federal bureau having jurisdiction over the manufacture of beer.

(4) Notwithstanding any other law to the contrary, it shall be lawful for any manufacturer of high alcohol content beer authorized to manufacture such beverages pursuant to subdivision (f)(1) to also brew beer as this term is defined in § 57-5-101(b) on the same premises of the manufacturer of high alcohol content beer, upon meeting necessary federal, state and local license

requirements.

(5) The general assembly hereby ratifies any action which may have been taken by the alcoholic beverage commission in issuing a license to a manufacturer of high alcohol content beer prior to June 10, 2011.

(g) The general assembly hereby ratifies any action which may have been taken by the alcoholic beverage commission in issuing a license to a manufacturer of intoxicating liquors or intoxicating drinks, or both prior to July 1, 2013.

(h)(1) Any person who has received a manufacturing license for intoxicating liquors or intoxicating drinks, or both from the alcoholic beverage commission or who has an application for such manufacturing license pending with the commission on July 1, 2013, may still receive and be able to renew the license if the person was authorized to apply for such license under this section prior to July 1, 2013.

(2) Any person who has received the necessary permit to manufacture intoxicating liquors or intoxicating drinks, or both from the alcohol and tobacco tax and trade bureau (TTB) or who has an application for such permit pending with the TTB on July 1, 2013, may still receive and be able to renew a manufacturing license from the alcoholic beverage commission if the person was authorized to apply for such manufacturing license under this section prior to July 1, 2013.

(3) If any person obtains a manufacturing permit pursuant to this subsection (h), then the jurisdiction such licensee is located in shall be allowed to have other manufacturers located in such jurisdiction, notwithstanding subdivision (d)(1).

57-2-104. Possession, storage or transportation by manufacturer lawful — Rights limited.

A manufacturer licensed pursuant to § 57-2-102, or the authorized agent of such licensee, may possess, store, or transport the products of the manufacturing plant within, over, and across the state; provided, that any alcoholic beverages or wine produced at a plant located within this state must be stored within a county that has authorized the manufacture of intoxicating liquors pursuant to § 57-2-103 or in a county adjacent to a county that has authorized the manufacturing operation, and such possession shall be limited to storage facilities owned, authorized, or leased by such manufacturer; and further provided, that such licensee may also possess such alcoholic beverages or wine while being transported, whether within or outside of the state. Common carriers may transport the products of such manufacturing plant only pursuant to an agreement or contract with a licensee under this title.

57-3-106. Local option election — Municipalities where applicable — Supplemental voter registration — Restrictions on frequency of elections.

(a)(1) Except as provided in subsection (g), the voters of any county may, by local option election, permit the manufacture, receipt, sale, storage, transportation, distribution and possession of alcoholic beverages, within the territorial limits of such county, by a majority vote, at an election held as hereinafter provided, and, in the event of such permission, the manufacture, receipt, sale, storage, transportation, distribution and possession of alcoholic

beverages in such county are lawful; provided, that sales at retail as herein defined shall be made only in the municipalities in such county as herein defined, or within a civil district of such county, which district shall have a population of thirty thousand (30,000) persons or over, according to the federal census for the year 1950 or any subsequent census, but which civil district shall not have lying either wholly or partly within its boundaries a municipality as herein defined.

(2) In like manner, the voters of any county, at any time while this chapter is in effect, may, by local option election, forbid the manufacture, receipt, sale, storage, transportation, distribution and/or possession of alcoholic or intoxicating beverages, within the territorial limits of such county, by a majority vote, at an election to be held as hereinafter provided, and, in the event of such prohibition, the manufacture, receipt, sale, storage, transportation, distribution and/or possession of alcoholic or intoxicating beverages in such county is unlawful; provided, that this does not apply to a bona fide manufacturer, actually engaged in manufacture under this chapter.

(b)(1) Except in counties having populations of:

not less than	nor more than
12,100	12,200
23,500	24,000
65,000	70,000

according to the 1970 federal census or any subsequent federal census, the voters of any municipality in this state which has been incorporated under a general or special law or laws of this state for five (5) years or longer and which has a population of nine hundred twenty-five (925) or more persons, according to the federal census of 1970 or any subsequent federal census, except in municipalities with a population of not less than one thousand two hundred thirty (1,230) nor more than one thousand two hundred fifty (1,250), according to the 1970 federal census or any subsequent federal census, in any county having a population of not less than thirteen thousand five hundred (13,500) nor more than thirteen thousand six hundred (13,600), according to the 1970 federal census or any subsequent federal census, may, by local option election, permit the manufacture, receipt, sale, storage, transportation, distribution and/or possession of alcoholic beverages within the territorial limits of such municipality by a majority vote, at an election held as hereinafter provided, and in the event of such permission, the manufacture, receipt, sale, storage, transportation, distribution and/or possession of alcoholic beverages in such municipality shall be, and become lawful, notwithstanding the fact that the county or any portion thereof in which such municipality is located has, or has not, voted to the contrary under any other provision of this chapter, and the same shall continue to be lawful until the same is forbidden by the voters of such municipality, by majority vote thereof, at a local option election held as hereinafter provided.

(2) In like manner, the voters of any such municipality, at any time while this chapter is in effect, may, by local option election, forbid the manufacture, receipt, sale, storage, transportation, distribution, and/or possession of alcoholic or intoxicating beverages, within the territorial limits of the municipality, by a majority vote, at an election to be held as hereinafter provided, and in the event of such prohibition, the manufacture, receipt,

sale, storage, transportation, distribution, and/or possession of alcoholic or intoxicating beverages in the municipality is unlawful, notwithstanding the fact that the county or any portion thereof in which the municipality is located has or has not voted to the contrary under any other provision of this chapter; provided, that this does not apply to a bona fide manufacturer, actually engaged in manufacture under any law of this state.

(c)(1) Elections provided for in subsections (a) and (b) shall be called and held as elections on questions by the county election commission at the next regular election of the county or municipality, as the case may be, upon receipt of a petition signed by residents of the county or municipality, as the case may be, to a number amounting to ten percent (10%) or more of the votes cast in the county or municipality, as the case may be, for governor of the state of Tennessee at the then last preceding gubernatorial election, requesting the holding of such election. Except that, no election under this chapter may be placed on the same ballot or conducted on the same day of a primary election.

(2) Such petition shall be addressed to the county election commission of such county, or county in which such municipality is located, and shall read, except for such address, substantially as follows:

We, registered voters of _____ (here insert name of county or municipality, as the case may be), do hereby request the holding of a local option election to authorize retail package stores to sell alcoholic beverages as provided by law.

(3) Such petition may be in two (2) or more counterparts.

(d) Registered voters of the county or municipality, as the case may be, may vote in the election. Ballots shall be in the form prescribed by the general election laws of the state, except as herein otherwise provided.

(1) The questions submitted to the voters appearing thereon in county elections shall be in the following form:

To permit retail package stores to sell alcoholic beverages in _____ (Here insert name of county)

Not to permit retail package stores to sell alcoholic beverages in _____ (Here insert name of county)

(2) The questions submitted to the voters appearing thereon in municipal elections shall be in the following form:

To permit retail package stores to sell alcoholic beverages in _____ (Here insert name of municipality)

Not to permit retail package stores to sell alcoholic beverages in _____ (Here insert name of municipality)

(e) In county elections, the county election commission shall hold a prior supplemental registration, unless such election be at the time of a general election, such registration to be held at the time and in the manner prescribed by law for the holding of supplemental registration previous to the election for members of the general assembly.

(f)(1) The county election commission shall certify the results of the election to the county mayor in county elections and to the mayor of the municipality in municipal elections.

(2) Not more than one (1) election in any such county or municipality shall be held under this chapter within any period of twenty-four (24) months, except that no election in an entire county or any portion thereof in which such municipality is located, held under this chapter, is an election held in

such municipality within the meaning of this subdivision (f)(2).

(3) Should any county or municipality thereof conduct a local option election under this chapter in conjunction with any general election, and the number of qualified votes cast negative to the local option proposition exceeds sixty percent (60%) of the total number of votes cast in the election, no further local option election in such county or municipality shall be held for a period of four (4) years from the date of such previous election. However, no election in an entire county or any portion thereof in which such municipality is located, held under this chapter, is an election held in such municipality within the meaning of this provision.

(g)(1) In those counties wherein are located municipalities which have a population equal to or greater than the smallest county in Tennessee by the federal census of 1960 or by any succeeding federal census, or any municipality having a population of one thousand seven hundred (1,700) or more persons, according to the 1960 federal census in which at least fifty percent (50%) of assessed valuation of the real estate in the municipality consists of hotels, motels, and tourist courts and accommodations, as shown by the tax assessment rolls or books of the municipality, the elections provided for in subsection (a) apply only to those portions of such county lying outside the corporate limits of such municipalities, it being the purpose and intent of this chapter that as to such counties no countywide election may be held in, nor shall its result affect, any such municipality, but whether or not the manufacture, receipt, sale, storage, distribution, transportation and/or possession of alcoholic beverages shall be permitted or prohibited within the corporate limits of such municipalities shall be determined solely by separate local option elections held in each municipality as provided by subsection (b) hereof; provided, that in such counties wherein the manufacture, storage, sale, distribution, transportation, and/or possession of alcoholic beverages was legal on May 10, 1967, nothing herein shall affect the legality thereof in such counties and the municipalities thereof until the same shall be prohibited by separate local option elections held as provided in this section.

(2) Elections may be called and held in such portions of such counties lying outside such municipalities in the same manner as is provided by subsection (a) for an entire county and with like effect, except that the results thereof shall be applicable only to those portions of such counties lying without the corporate limits of such municipalities. Petitioners for such elections and the voters participating therein shall reside within those portions of the county lying outside the corporate limits of such municipalities and shall be otherwise qualified as provided in this section. Where a majority of the voters participating in such election shall permit the manufacture, receipt, sale, storage, distribution, transportation and/or possession of alcoholic beverages within such portions of such counties, the same shall be and become lawful therein, but sales at retail shall be made only in such portions of such counties as are within the corporate limits of municipalities as the same are defined in § 57-3-101, except this subsection (g) shall likewise apply to any civil district which falls within subsection (a) and § 57-3-205.

(3) Not more than one (1) such election shall be held in such portions of any county lying without the corporate limits of such municipalities within any period of twenty-four (24) months.

(4) Should any portion of any county lying without the corporate limits of such municipalities conduct a local option election under the provisions of this chapter in conjunction with any general election, and the number of qualified votes cast negative to the local option proposition exceeds sixty percent (60%) of the total number of votes cast in the election, no further local option election in such portions of any county lying without the corporate limits of such municipalities shall be held for a period of four (4) years from the date of such previous election. However, no election in any such portion of a county, held under this chapter, is an election held in such municipalities within the meaning of this subdivision (g)(4).

(h) When a municipality is located partly within a county that has a metropolitan form of government and the county has authorized retail package stores to sell alcoholic beverages and partly within another county that has not authorized retail package stores to sell alcoholic beverages, a referendum in the municipality shall be held only in that portion of the municipality located in the county that has not authorized retail package stores to sell alcoholic beverages. The referendum result shall not affect the sale of alcoholic beverages by retail package stores in the portion of the municipality located in the county having a metropolitan form of government.

(i) If any municipality located in any county having a population of not less than twenty-nine thousand four hundred (29,400) nor more than twenty-nine thousand five hundred (29,500), according to the 2010 federal census or any subsequent federal census, has authorized the sale of alcoholic beverages for consumption on the premises in a referendum in the manner prescribed by this section, then any municipality having a population of not less than five hundred thirty (530) nor more than five hundred thirty-nine (539), according to the 2010 federal census or any subsequent federal census, located within the boundaries of such county, may conduct a referendum to authorize the sale of alcoholic beverages at retail within the corporate boundaries of such municipality, notwithstanding the population requirements of § 57-3-101(a)(14) or subdivision (b)(1). The referendum shall be conducted in the manner prescribed by this section.

(j) If any municipality located in any county having a population of not less than forty-one thousand eight hundred (41,800) nor more than forty-one thousand nine hundred (41,900), according to the 2010 federal census or any subsequent federal census, has authorized the sale of alcoholic beverages for consumption on the premises in a referendum in the manner prescribed by this section, then any municipality having a population of not less than four hundred sixty (460) nor more than four hundred seventy (470), according to the 2010 federal census or any subsequent federal census, located within the boundaries of such county, may conduct a referendum to authorize the sale of alcoholic beverages at retail within the corporate boundaries of such municipality, notwithstanding the population requirements of § 57-3-101(a)(14) or subdivision (b)(1). The referendum must be conducted in the manner prescribed by this section.

(k) If any municipality located in any county having a population of not less than sixty-six thousand two hundred (66,200) nor more than sixty-six thousand three hundred (66,300), according to the 2010 federal census or any subsequent federal census, has authorized the sale of alcoholic beverages for consumption on the premises in a referendum in the manner prescribed by this section, then any municipality having a population of not less than three

hundred ten (310) nor more than three hundred nineteen (319), according to the 2010 federal census or any subsequent federal census, located within the boundaries of such county, may conduct a referendum to authorize the sale of alcoholic beverages at retail within the corporate boundaries of such municipality, notwithstanding the population requirements of § 57-3-101(a)(14) or subdivision (b)(1). The referendum must be conducted in the manner prescribed by this section.

(*l*)(1) Notwithstanding subsection (a), in any county that has approved the sale at retail of alcoholic beverages, retail sales may be made within the boundaries of any property under the control of a property owners association that:

(A) Includes at least four thousand (4,000) homes;

(B) Contains three (3) golf courses, a country club, and a yacht club;

(C) Is managed by a 501(c) nonprofit corporation;

(D) Has more than one hundred (100) miles of roads maintained by the property owners association;

(E) Has a volunteer fire department;

(F) Has more than one hundred (100) people employed by the property owners association;

(G) Has a utility system maintained by the property owners association;

(H) Is located on the banks of Tellico Reservoir; and

(I) Is located in any county having a population not less than forty-eight thousand five hundred (48,500) and not more than forty-eight thousand six hundred (48,600), according to the 2010 federal census or any subsequent federal census.

(2) Notwithstanding any other law to the contrary, the commission may issue a retailer's license to any 501(c) nonprofit corporation described in subdivision (*l*)(1)(C) if such nonprofit corporation approves having a retail licensee within the boundaries of its property upon a majority vote of the board for such nonprofit corporation.

57-3-202. Manufacturer's or distiller's licenses — Qualifications of applicants — Fees — Permits to solicit orders — Penalty — Rules and regulations.

(a) A manufacturer's or distiller's license may be issued, as hereinafter provided, for the manufacturing of alcoholic spirituous beverages or vintage alcoholic beverages. Any person, firm, or corporation desiring to manufacture for commercial purposes any alcoholic spirituous beverages or vintage alcoholic beverages shall make application to the commission for a license to manufacture the same, which application shall be in writing and verified, on the forms herein authorized, to be prescribed and furnished; and, thereupon, the commission may grant such license, subject to this chapter.

(b) All applicants if individuals must be citizens of the United States, and all stockholders of any corporate licensee must likewise be citizens of the United States.

(c) Such license shall not be issued unless and until there be paid to the commission a separate license fee of one thousand dollars ($1,000).

(d) Before an individual owner, officer, employee, or representative of any manufacturer, rectifier, or importer may solicit orders from a licensed whole-

saler in this state, such individual owner, officer, employee, or representative shall be the holder of a permit issued by the commission. The fee for such permit shall be fifty dollars ($50.00). Such permit shall authorize the holder to solicit orders upon the premises of a licensed wholesaler. A representative may sell the products of, or represent more than one (1) manufacturer, rectifier, or importer and such affiliates or subsidiaries that the manufacturer, rectifier, or importer may control by means of ownership or the ownership of a controlling stock interest.

(e) "Vintage alcoholic beverages," as used in this section, means all wine sold by wholesalers licensed under § 57-3-203.

(f)(1) A manufacturer's license may be issued to a person, firm or corporation for the limited purpose of blending nonalcoholic products with alcoholic beverages on premises, either on its own behalf or on behalf of other entities pursuant to contract.

(2) A licensee under this subsection (f) may obtain the alcoholic beverages for use in its blending operations from any entity holding a license or permit issued under this section, §§ 57-2-104, 57-3-203, and part 6 of this chapter.

(3) A license may be issued to a manufacturer, under this subsection (f), notwithstanding the requirements of § 57-3-106.

(4) A manufacturer, licensed under this subsection (f) for the limited purpose of blending, may sell, distribute or transport the product produced from its blending operations in accordance with this title.

(g) Notwithstanding subsection (f), an establishment licensed to sell alcoholic beverages for on-premises consumption pursuant to chapter 4, part 1 of this title, may, without a manufacturer's license, produce, store and sell infused products pursuant to § 57-4-108.

(h) The commission is empowered to make such regulations, investigations and audits as it may deem necessary for enforcing and preventing violations of this chapter.

(i)(1) A manufacturer's license issued or renewed under this section to a manufacturer shall also allow such manufacturer to sell at retail on the licensed premises of the manufacturer products that are manufactured on the manufacturer's premises; provided, that no more than five gallons (5 gal.) or one-sixth (⅙) of a barrel of its products may be sold to any one (1) individual per visit to the premises. The manufacturer may serve samples of the product manufactured or distilled at the premises to any person of legal drinking age with or without cost or may include such samples as part of a tour of the manufacturer's or distiller's premises available to the public with or without cost. Such samples may be made available at any location on the manufacturing premises permitted by federal law. The manufacturer shall disclose to the commission the location where samples are available. The hours of sale for the manufacturer to sell products at retail shall be between the hours of eight o'clock a.m. (8:00 a.m.) and eleven o'clock p.m (11:00 p.m) on Monday through Saturday and between the hours of twelve o'clock (12:00) noon and seven o'clock p.m. (7:00 p.m.) on Sunday.

(2) A manufacturer electing to exercise the rights granted to it under subdivision (i)(1), may only sell at retail or provide samples of product that it has obtained from a wholesaler licensed under § 57-3-203, and such wholesaler shall remit all taxes imposed under §§ 57-3-302, 57-3-501 (which shall be collected from the manufacturer based upon its retail sales), and 57-6-201. For products acquired from a wholesaler by a manufacturer under

this section, the wholesaler may permit the manufacturer to deliver its products to the location on its premises where such retail sales and samples will be effected, provided the wholesaler permitting such direct shipment must include the amounts delivered in its inventory and depletions for purposes of tax collections.

(3) Notwithstanding any law to the contrary, any manufacturer selling at retail with the license authorized by this subsection (i) shall pay a municipal inspection fee, described in § 57-3-501, if a municipality the manufacturer is located in imposes such inspection fee which shall then be remitted by the wholesaler as described in subdivision (i)(2).

(4)(A) A distiller's license issued or renewed under this section authorizes a distillery to sell to any person of legal drinking age alcoholic beverages for consumption on the premises of the distillery, other than the bonded premises, where such consumption is also permitted by federal law. Distilled spirits sold under this subdivision (i)(4) must be manufactured on the premises of the distillery.

(B) As used in subdivision (i)(4)(A), "premises," for purposes of consumption on the premises:

(i) Means any and all of the real property owned or leased by a distillery upon which the distillery is operated, including any real property owned by the distillery contiguous thereto; and

(ii) Does not mean the bonded premises of a distillery.

(5) Samples served and alcoholic beverages sold for consumption on the premises of a distillery in accordance with this subsection (i) are not subject to the tax imposed by § 57-4-301(c).

(j)(1) Any nonprofit association organized to encourage and support the manufacture of alcoholic beverages with three (3) or more manufacturers licensed under this section or non-manufacturer non-resident sellers licensed under § 57-3-602(c) as members shall be allowed to hold not more than fifteen (15) alcoholic beverage festivals per calendar year. Each festival shall not exceed a period of seventy-two (72) hours.

(2) Any manufacturer licensed under this section or non-manufacturer non-resident seller licensed under § 57-3-602(c) participating in a festival authorized by this subsection (j) shall be allowed to transport, serve and offer complimentary samples of any alcoholic beverage lawfully manufactured by the manufacturer or on behalf of the non-manufacturer non-resident seller pursuant to § 57-3-602(c) for tasting at the festival.

(3) Any manufacturer licensed under this section or non-manufacturer non-resident seller licensed under § 57-3-602(c) participating in a festival authorized by this subsection (j) shall be allowed to transport alcoholic beverages produced by that manufacturer or on behalf of that non-manufacturer non-resident seller to sell at the festival for consumption off-premises.

(4)(A) Any nonprofit association authorized by this subsection (j) to hold an alcoholic beverage festival shall apply for a special occasion license as defined in § 57-4-102, in order for participating manufacturers licensed under this section or non-manufacturer non-resident sellers licensed under § 57-3-602(c) to serve complimentary samples as described in subdivision (j)(2) and to sell alcoholic beverages produced by the manufacturers or on behalf of the non-manufacturer non-resident sellers for consumption off-premises.

(B) Notwithstanding § 57-4-102(33)(A), a special occasion license issued for an alcoholic beverage festival authorized by this subsection (j) shall be for the duration of the festival for which application is made for a period not to exceed seventy-two (72) hours. A special occasion license issued pursuant to this subsection (j) shall only be available upon the payment of the fee as required by law for each separate day of the festival.

(C) A nonprofit association authorized to conduct an alcoholic beverage festival pursuant to this subsection (j) shall be permitted to hold the festival in any municipality or county of the state in the manner provided in subdivision (j)(5).

(5) A nonprofit association, as defined in subdivision (j)(1), is authorized to conduct an alcoholic beverage festival pursuant to this subsection (j) in a municipality or county of this state that has approved the sale of alcoholic beverages or has a licensed manufacturer located in that municipality or county, subject to complying with all permit requirements of the municipality or county, and in all other municipalities or counties upon receiving approval of the legislative body of the municipality or county to hold such festival at a location and in such manner authorized by such legislative body.

(k)(1)(A) Any manufacturer licensed under this section shall be permitted to use items related to or incidental to the tasting of alcoholic beverages manufactured on the premises and such items may be mixed with such alcoholic beverages anywhere on or off the manufacturer's premises where tastings are permitted as well as at private events and events requiring a special occasion license. Such items may include, but are not limited to:

(i) Bitters, whether manufactured on the premises or purchased at retail, used in the preparation or garnishment of alcoholic beverages or mixed alcoholic beverages;

(ii) Any and all garnishes and food items used in the preparation or garnishment of alcoholic beverages or mixed alcoholic beverages, including any juices, concentrates, and other ingredients used in the preparation of mixed alcoholic beverages;

(iii) Glassware and any other cups, glasses, or other containers normally used for serving drinks;

(iv) Ice, water, soft drinks, and any other nonalcoholic beverages; and

(v) Other alcoholic beverages manufactured on the premises.

(B) Tastings under subsection (i) shall be limited to one-half ounce (½ oz.) of alcohol per stock keeping unit (sku) per tasting;

(2) Any manufacturer licensed under this section shall be permitted to rent or lease out any portion of their premises for any event, with or without charge, whether the event is public, private, requires a special occasion license as defined in § 57-4-102, or catered by a caterer licensed pursuant to chapter 4, part 1 of this title. Events cannot be held on the bonded premises or general premises of the manufacturer, as defined in 27 CFR part 19, unless the manufacturer has obtained prior approval from the alcohol and tobacco tax and trade bureau (TTB) for such events pursuant to federal regulations.

(3) Owners, officers, employees, and representatives of any manufacturer licensed under this section shall be permitted to touch, handle, and pour product of such manufacturer at any and all tastings permitted by law, including, but not limited to, consumer education seminars, employee education seminars, retail sales demonstrations, consumer tastings, private

events, events requiring a special occasion license as defined in § 57-4-102, and any and all tastings permitted under this chapter, and any rules or regulations promulgated.

(4) In the event of a conflict between any other law in this title and this subsection (k), this subsection (k) shall govern.

57-3-204. Retailer's licenses — Fees — Permits for employees — Permit renewal — Disposition of alcoholic beverages after nonlicensed persons secure title — Sign required — Penalty for failure to comply. [Effective until July 1, 2021. See the version effective on July 1, 2021.]

(a) For the retail sale of alcoholic spirituous beverages, including beer and malt beverages, as in this chapter defined, a license may be approved for transfer and reissued as herein provided. New licenses shall only be issued for jurisdictions that first approve the retail sale of alcoholic spirituous beverages by local option election conducted under § 57-3-106 after April 1, 2018, or to applicants who have filed applications prior to April 20, 2018. Except as provided in the preceding sentence, in all instances, any person, firm, or corporation desiring to sell alcoholic spirituous beverages, including beer and malt beverages, to patrons or customers, in sealed packages only, and not for consumption on the premises except for conducting tastings pursuant to § 57-3-404(h)(2), shall first acquire the right to purchase an existing license, from an existing licensee and then make application to the commission for the transfer of such existing retailer's license, which application shall be in writing and verified, on forms herein authorized to be prescribed and furnished, and disclosing the name of the proposed transferor of the license; and the commission may, subject to the restrictions of this chapter, approve the transfer of such retailer's license as set forth in § 57-3-212. If the premises with respect to which the license transfer is sought is owned by a person, firm, or corporation not the applicant, the application shall include the name and address of the owner. If the ownership of the premises should change after a license is granted, the licensee shall, within ten (10) days after becoming aware of such change in ownership, notify the commission in writing of the name and address of the new owner.

(b)(1) Each applicant for a retail license or retail license transfer shall pay to the commission a one-time, nonrefundable fee in the amount of three hundred dollars ($300) when the application or application for transfer is submitted for review. A retailer's license under this section shall not be issued or transferred until the applicant has paid to the commission the annual license fee of eight hundred fifty dollars ($850).

(2) No retail license under this section may be issued or transferred to or held by, to any individual:

(A) Who has not been a bona fide resident of this state during the two-year period immediately preceding the date upon which application is made to the commission or, with respect to renewal of any license issued pursuant to this section, who has not at any time been a resident of this state for at least ten (10) consecutive years;

(B) Who has been convicted of a felony under the laws of this state, any other state or the United States;

(C) Who has had a license related to the manufacture, sale or distribu-

tion of any form of alcoholic beverages revoked for cause;

(D) Who is not twenty-one (21) years of age or older;

(E) Who has an interest, whether direct or indirect, in a manufacturer, distiller, rectifier, liquor wholesaler, winery, distributor, retail food store or farm winery selling alcoholic beverages that is licensed in this state, except that the spouse of an applicant for a retail license may own and hold a farm wine permit if the spouse does not hold a retailer's license issued under this section;

(F) Who, other than as a member of the governing body of a city or county, appoints or supervises any law enforcement officer, who is a law enforcement official or who is an employee of the commission;

(G) Who intends to carry on the business authorized by the license as the agent or on behalf of another;

(H) Who at the time of the time of application for renewal of any license issued under this section would not be eligible for the license upon a first application;

(I) Who is the holder of a valid existing license issued for the sale of wine in a retail food store under § 57-3-803, and amendments thereto;

(J) Who does not own the premises for which a license is sought, or does not, at the time of application, have a written and enforceable lease thereon;

(K) Whose spouse would be ineligible to receive a license under this section for any reason other than citizenship, residence requirements or age, except that this subdivision (b)(2)(K) shall not apply in determining eligibility for a renewal license; and

(L) Whose spouse has been convicted of a felony or other crime that would disqualify a person from licensure under this section and such felony or other crime was committed during the time that the spouse held a license under this section.

(3) The commission may, in its discretion, issue such a retail license to a corporation; provided, that no such license shall be issued to, transferred to, or maintained by any corporation unless such corporation meets the following requirements:

(A) No retail license shall be issued to, transferred to, or maintained by any corporation if any officer, director or stockholder owning any capital stock in the corporation, would be ineligible to receive a retailer's license for any reason specified in subdivision (b)(2), if application for such retail license had been made by the officer, director or stockholder in their individual capacity;

(B) All of its capital stock must be owned by individuals who are residents of this state and either have been residents of the state for the two (2) years immediately preceding the date application is made to the commission or, with respect to renewal of any license issued pursuant to this section, who has at any time been a resident of this state for at least ten (10) consecutive years;

(C) No person owning stock in such corporation shall have any interest as partner or otherwise, either direct or indirect, in any business licensed to engage in the distribution of liquor, spirits, wine or high alcohol content beer in Tennessee; and

(D) No stock of any corporation licensed under this section shall be transferred to any person who is not a resident of this state and either has

not been a resident of the state for at least two (2) years next preceding or who at any time has not been a resident of this state for at least ten (10) consecutive years.

(4) It is the intent of the general assembly to distinguish between licenses authorized generally under this title and those specifically authorized under this section. Because licenses granted under this section include the retail sale of liquor, spirits and high alcohol content beer which contain a higher alcohol content than those contained in wine or beer, as defined in § 57-5-101(b), it is in the interest of this state to maintain a higher degree of oversight, control and accountability for individuals involved in the ownership, management and control of licensed retail premises. For these reasons, it is in the best interest of the health, safety and welfare of this state to require all licensees to be residents of this state as provided herein and the commission is authorized and instructed to prescribe such inspection, reporting and educational programs as it shall deem necessary or appropriate to ensure that the laws, rules and regulations governing such licensees are observed.

(c)(1) If a retail licensee ceases to do business through the voluntary or involuntary loss of the licensee's license, or if a person not licensed under this chapter obtains title to alcoholic beverages of a retail licensee as a result of a defaulted loan or execution, the wholesaler who sold the alcoholic beverages to the retailer shall purchase such alcoholic beverages from the retailer at a base price of the wholesalers' laid-in cost of such alcoholic beverage. A wholesaler shall be permitted an offset or charge against such payment for any outstanding obligation owed to the wholesaler by such licensee or for reasonable labor, restocking and transportation charges.

(2) Any licensee objecting to the reasonableness of the offset or charge may petition the commission to review such, and shall designate the wholesaler as a respondent. The commission shall conduct a contested case hearing pursuant to the Uniform Administrative Procedure Act, compiled in title 4, chapter 5, part 3, to consider the objection.

(3) The obligation imposed on a wholesaler under this section does not apply to any product which:

(A) Is damaged or cannot be legally sold in this state;

(B) Is not sold to a retailer within one hundred eighty (180) days of demand for repayment;

(C) The wholesaler from whom the product was purchased is not the designated distributor pursuant to § 57-3-301, at the time demand is made;

(D) Product contains a price tag not readily removable; or

(E) Is sold in a commemorative bottle, seasonal decanter or other novelty container.

(4)(A) Notwithstanding § 57-3-406(b), if a retail licensee is not in debt to a wholesaler for any credit law violations or refused check and provides a thirty-day irrevocable notice of surrender to the commission prior to the termination of the license, the licensee shall be able to sell any unopened bottle inventory to any customer below the cost paid by the retailer to purchase the alcoholic beverages from the wholesaler so long as the price is not lower than ten percent (10%) of such purchase price.

(B) A retail licensee selling a product in accordance with this section shall not subsequently purchase that product from the wholesaler prior to

termination of the license.

(C) A retail licensee unable to sell product in accordance with this subdivision (c)(4) shall be able to keep the remaining product for personal use.

(d)(1) A manufacturer licensed under § 57-3-202, or under chapter 2 of this title, is authorized to obtain a license under this section for the retail sale of alcoholic beverages or products containing alcohol subject to the further restrictions of this subsection (d).

(2) A manufacturer seeking to obtain a retail license under this subsection (d) shall apply to the commission on such forms as the commission may prescribe.

(3) A retail license issued under this subsection (d) may be located only on the licensed premises of the manufacturers and may be located on such premises whether or not such premises is located in a jurisdiction which has authorized retail sale of alcoholic beverages pursuant to § 57-3-106.

(4) A manufacturer licensed to sell at retail at its retail location under this subsection (d) may sell only such products as are manufactured on the manufacturer's premises; provided, that at such retail location no more than five gallons (5 gal.) or one sixth (⅙) of a barrel of its products may be sold to any one (1) individual per visit to the premises.

(5) A retail license issued under this subsection (d) may be issued to a manufacturer, regardless of the residency or domicile of the manufacturer, notwithstanding the requirements imposed by subsection (b).

(6) Notwithstanding any other law to the contrary, a retail licensee, held by a manufacturer or distiller, may serve samples of the product manufactured or distilled at the premises to any person of legal drinking age without cost or may include such samples as part of a tour of the manufacturer's or distiller's premises available to the public with or without cost. Such samples may be made available at either the premises of the retailer or at such other location on the premises of the manufacturer or distiller holding such retail license which other location has been disclosed to the commission and may be any location on the premises permitted by federal law.

(7) If the retail license under this subsection (d) is held by a manufacturer of high alcohol content beer authorized to manufacture such beverages, then:

(A) Notwithstanding any other law, the retailer may sell its products at such retail location which are manufactured on the manufacturer's premises in accordance with subdivisions (d)(7)(B) and (C) in sizes and containers that are made available through the general wholesale/retail distribution system; provided, that subsection (e) related to the delivery of alcoholic beverages by wholesalers shall be applicable;

(B)(i) Such retailer may also offer and sell beer, as beer is defined in § 57-5-101(b), for consumption on or off-premises, at the same physical location at which it offers samples of and sells its high alcohol content beer; provided, that such beer and high alcohol content beer is brewed on the manufacturer's premises located at the retail location; and further provided, that such manufacturer may distribute such beer as defined in § 57-5-101(b) only to wholesalers licensed pursuant to chapter 5 of this title. A wholesaler of such products may permit a manufacturer to deliver its products to the retail premises operated by such manufacturer directly; provided, that the wholesaler permitting such direct shipment must include the amounts delivered in its inven-

tory and depletions for purposes of tax collections;

(ii) Notwithstanding any other law to the contrary, the hours and days on which such beer or high alcohol content beer may be sold at retail by a manufacturer authorized to manufacture such beverages pursuant to § 57-2-103(f) shall be as set by the governing body of the local jurisdiction in which the manufacturer is located, and such governing body shall further have the authority to authorize the sale of high alcohol content beer and beer within the same store notwithstanding § 57-3-404(e)(1);

(C) Such retailer may sell no more than five gallons (5 gal.) or one sixth (⅙) of a barrel of beer or high alcohol content beer or any combination of such beverages to any one (1) individual per visit to the premises.

(e)(1) A manufacturer licensed under chapter 2 of this title, or this chapter 3, may distribute alcoholic beverages or products containing alcohol only to a wholesaler licensed pursuant to § 57-3-203 where such alcoholic beverages or products are intended for sale at retail in this state; provided, however, that, where such alcoholic beverages are not intended for resale, a manufacturer may make complimentary distributions as allowed by § 57-3-404 and on a periodic basis to its employee or employees in the normal course of employment and to others not licensed under this chapter for routine business or marketing purposes. A wholesaler may permit a manufacturer to deliver its products to the retail premises operated by such manufacturer directly; provided, that the wholesaler permitting such direct shipment must include the amounts delivered in its inventory and depletions for purposes of tax collections imposed pursuant to §§ 57-3-302, 57-6-201 and 57-3-501.

(2) No wholesaler may restrict the sale of its products to a retail license held by a manufacturer but must make its products available to any retailer licensed under this section.

(f)(1) Subsection (d) applies only in those jurisdictions where the voters have approved the sale of alcoholic beverages for off-premises consumption by referendum held pursuant to § 57-3-106 or where the voters have, by local option election, approved the issuance of such special retail license. A special local option election as authorized by this subsection (f), shall be conducted in the manner prescribed in § 57-3-106; provided, that the question submitted to the voters shall be in the following form:

To permit licensed manufacturers to obtain a license to sell alcoholic beverages at retail in _____ (here insert jurisdiction).

Not to permit licensed manufacturers to obtain a license to sell alcoholic beverages at retail in _____ (here insert jurisdiction).

(2) In any county having within its boundaries a manufacturer, where the voters of municipalities located within such county have approved the sale of alcoholic beverages, pursuant to § 57-3-106, and where the total population of such municipalities exceeds fifty percent (50%) of the population of the county, no such referendum shall be required; provided, that the authorized retail sales by a manufacturer where no referendum is required is not effective until January 1, 1995.

(g)(1) A restaurant licensed by the commission pursuant to § 57-4-101(a)(1) may also own, or operate, a separate retail license issued under this section to permit off-premise consumption, if such entity satisfies the further conditions of either subdivision (g)(2) or (g)(3).

(2)(A) Notwithstanding the restrictions of § 57-3-208, a restaurant or its

affiliate may own or operate a license issued pursuant to § 57-3-204 if:

(i) The retail licensee is located within the same structure as the restaurant in a defined section or portion of the structure as approved by the commission;

(ii) The retail package store and the restaurant are located in a structure constructed prior to 1925 that is placed on the national register of historic places;

(iii) The structure within which such retail package store and restaurant are located shall not be closer than three hundred feet (300′) nor more distant than three hundred fifty feet (350′) from a federal interstate highway;

(iv) The structure within which such retail package store and restaurant are located shall be no farther than one hundred feet (100′) from a public park adjacent to a navigable waterway, and shall be no closer than five hundred feet (500′) nor more distant than five hundred fifty feet (550′) from a railway station providing commuter rail service that railway employs standard gauge locomotives and coaches; and

(v) The structure within which such retail package store and restaurant are located shall be located within a county having a metropolitan form of government with a population in excess of five hundred thousand (500,000), according to the 2010 federal census or any subsequent federal census.

(B) Notwithstanding § 57-3-208, the retail license issued pursuant to this subsection (g) to a restaurant or its affiliate shall be subject to the requirements of this title. It shall be the duty of the commission to verify that all persons owning or operating a retail license issued under this subdivision (g)(2) meet the qualifications to receive a license.

(3)(A) Notwithstanding the requirements of § 57-3-208, a restaurant, or its affiliate, may also own or operate a license issued pursuant to § 57-3-204, if:

(i) The location of the retail licensee is in the same structure as the restaurant; provided, the retail operations are conducted in a portion of the structure as identified to and approved by the commission;

(ii) The structure within which the restaurant and the retail licensee are located is situated on:

(a) A tract or tracts of land having at least twenty-four (24) contiguous acres;

(b) Land adjacent to a federal interstate highway; and

(c) Property no farther than two hundred fifty feet (250′) from a commercial railroad tract, upon which tracts of land there is a residence constructed prior to 1860 and upon which tracts is located a historic stable and carriage house;

(iii) The retail licensee is owned or authorized to be operated by an entity recognized as exempt from taxation under Internal Revenue Code Section 501(c)(3) (26 U.S.C. § 501(c)(3)); and

(iv) The retail licensee is located within a county having a metropolitan form of government with a population in excess of five hundred thousand (500,000), according to the 2010 federal census or any subsequent federal census.

(B) Notwithstanding § 57-3-208, any retail license issued pursuant to this subdivision (g)(3) shall be subject to the requirements of this title. It

shall be the duty of the commission to verify that the entity owning or operating the retail license meets the qualifications of this subdivision (g)(3) and that all of the owners or operators authorized by the nonprofit entity to operate the license otherwise qualify under this title.

(h)(1) Notwithstanding this section or § 57-3-208, a terminal building of a commercial air carrier airport that is a member of the Tennessee Association of Air Carrier Airports may obtain a retail license under this section authorizing the licensee to sell alcoholic beverages at retail in accordance with this subsection (h).

(2) A retail license issued under subdivision (h)(1) authorizes a terminal building of a commercial air carrier airport to operate one (1) or more noncontiguous retail stores located within the area of the terminal building secured by the transportation security administration or its successor organization.

(3) A retail store licensed under this subsection (h):

(A) May sell alcoholic beverages that:

(i) Are manufactured within this state;

(ii) Are packaged in tamper-resistant sealed packages; and

(iii) Indicate on the packaging that the customer is prohibited from consuming the alcoholic beverage until the customer reaches the customer's final destination;

(B) Notwithstanding § 57-3-406(e) and (h), may sell alcoholic beverages on any day and during any hours during which the terminal building of a commercial air carrier airport is authorized to sell alcoholic beverages for on-premises consumption;

(C) May store inventory at one (1) or more secure locations other than the premises of the retail store that are located within the terminal building;

(D) May transfer and transport inventory to and from storage locations; and

(E) Shall not conduct consumer educational seminars or authorize its employees or agents to receive complimentary samples at a sales demonstration under § 57-3-404(h).

(4) Subsection (a) and subdivisions (b)(1), (2), (3)(A), and (3)(C) shall apply to retail stores licensed under this subsection (h).

(5) The commission shall verify that a terminal building of a commercial air carrier airport meets all qualifications for licensure under this subsection (h) prior to issuing a license.

(6) As used in this subsection (h), unless the context otherwise requires, "terminal building of a commercial air carrier airport" has the same meaning as defined in § 57-4-102.

57-3-208. Certificate required — Contents — Exceptions. [Effective until July 1, 2021. See the version effective on July 1, 2021.]

(a) As a condition precedent to the issuance of a license under § 57-3-204, every applicant for a license under that section shall submit with the application to the commission a certificate signed by the county mayor or chair of the county commission in which the licensed premises are to be located if outside the corporate limits of a municipality or, if within a municipality, from the mayor or a majority of the commission, city council, or legislative body of the municipality, by whatsoever name designated, or if the municipality has no

mayor, from the highest executive of the municipality.

(b)(1) The certificate must state:

(A) That the applicant or applicants who are to be in actual charge of the business have not been convicted of a felony within a ten-year period immediately preceding the date of application and, if a corporation, that the executive officers or those in control have not been convicted of a felony within a ten-year period immediately preceding the date of the application;

(B) That the applicant or applicants have secured a location for the business which complies with all restrictions of any local law, ordinance, or resolution, duly adopted by the local jurisdiction, as to the location of the business;

(C) That the applicant or applicants have complied with any local law, ordinance or resolution duly adopted by the local authorities regulating the number of retail licenses to be issued within the jurisdiction;

(D) For any applicant or applicants acquiring the right to purchase from an existing licensee and transferring the license to another location, that the new location is not within one thousand five hundred feet (1,500′) of another location engaged in the retail sale of alcoholic spirituous beverages and is located within the same jurisdiction wherein the transferor premises was located.

(2) Each applicant or officer identified in subdivision (b)(1)(A) must obtain and submit with the certificate a local and national criminal history record obtained from a third party using a multistate criminal records locator or other similar commercial nationwide database with validation. A criminal history record that indicates that the applicant or officer has not been convicted of a felony within the immediately preceding ten-year period serves as proof satisfactory that the applicant or officer has complied with subdivision (b)(1)(A).

(c) Municipalities and counties are hereby authorized to limit the location of retail liquor stores and the number of licenses issued within their jurisdictions. No local law, ordinance or resolution may limit the location and number of licenses authorized under § 57-3-204, so as to unreasonably restrict the availability of alcoholic beverages for the residents of such municipalities and counties. A local jurisdiction may impose reasonable residency requirements on any applicant. However, if a local jurisdiction does impose such residency requirements, such local jurisdiction shall not be authorized to impose any residency requirement on any applicant who has been continuously licensed pursuant to § 57-3-204 for seven (7) consecutive years.

(d) An applicant may seek review of the denial of a certificate by instituting an action in the chancery court having jurisdiction over the municipality or county within sixty (60) days of the denial.

(e) A failure on the part of the issuing authority to grant or deny the certificate within sixty (60) days of the written application for such shall be deemed a granting of the certificate.

(f) The requirement imposed by this section to submit a certificate shall not be applicable to any applicant if:

(1) The authority of the county or municipality charged with the responsibility to issue the certificate required herein shall have failed to grant or deny the certificate within sixty (60) days after written application for such certificate is filed; or

(2) The applicant submits a final order of a court holding that the denial of the required certificate was unreasonable, as established by subsections (c) and (d).

57-3-212. Transfer of permits restricted. [Effective until July 1, 2021. See the version effective on July 1, 2021.]

(a) The holder of a license may not sell, assign, or transfer such license to any other person other than to a person that the commission has approved pursuant to § 57-3-204. Any license issued or approved for transfer shall be good and valid only for the twelve (12) months after the same was issued or approved for transfer by the commission. The license proposed to be transferred may be for the same location or, with commission approval, transferred from one (1) location to another location.

(b) Licensees who are serving in the military forces of the United States in time of war may appoint an agent to operate under the license of the licensee during the absence of the licensee. In such instances, the license shall continue to be carried and renewed in the name of the owner. The agent of the licensee shall conform to all the requirements of a licensee under this chapter, including the furnishing of a certificate as provided under § 57-3-208. No person who is ineligible to obtain a license under this chapter shall be eligible to serve as the agent of a licensee under this section.

(c) Except as expressly authorized, there shall be no transfer of any permit from the holder thereof to another, nor, except in special instances to be fixed by rule or regulation of the commission, any transfer thereof from one (1) location to another.

57-3-217. Direct shipper's license.

(a) Any person, firm or corporation that holds a federal basic permit pursuant to the Federal Alcohol Administration Act (27 U.S.C. § 201 et seq.), and is in the business of manufacturing, bottling or rectifying wine may apply to the commission for a direct shipper's license under this section. Applicants for a direct shipper's license shall submit to the commission a copy of the federal basic permit and a permit for the manufacturing, bottling, or rectification of wine from the state where such wine is produced.

(b) A direct shipper, meeting the requirements of this section, shall be authorized to make sales and delivery of wine, as defined in § 57-3-101, by common carrier to the citizens of this state over the age of twenty-one (21) who have purchased the wine directly from the direct shipper, subject to the limitations and requirements imposed by this section.

(c) As a condition to the issuance of a direct shipper's license as authorized in this section, an applicant for the license must satisfy the following conditions:

(1) Pay to the commission a one-time nonrefundable fee in the amount of three hundred dollars ($300) when the application is submitted for review. A direct shipper's license under this section shall not be issued until the applicant has paid to the commission the annual license fee of one hundred fifty dollars ($150);

(2) Execute a consent to jurisdiction and venue of all actions brought before the commission, any state agency or the courts of this state, such that any and all hearings, appeals and other matters relating to the license of the

direct shipper shall be held in this state;

(3) Acknowledge, in writing, that it will contract only with common carriers that agree that any delivery of wine made in this state shall be by face-to-face delivery and that deliveries will only be made to individuals who demonstrate that the individuals are over twenty-one (21) years of age and the individuals sign upon receipt of the wine.

(d)(1) No direct shipper may ship more than a total of nine (9) liters of wine to any individual during any calendar month nor shall the shipper ship more than twenty-seven (27) liters of wine to any individual in any calendar year.

(2) Any shipment of wine pursuant to this section shall be made only in containers that clearly indicate on the exterior of the container, visible to a person at least three feet (3′) away, that the container "CONTAINS ALCOHOL: SIGNATURE OF PERSON AGE 21 OR OLDER REQUIRED FOR DELIVERY".

(e)(1) A direct shipper shall be responsible for remitting all sales taxes due resulting from any sale made under this section. In addition to all sales taxes imposed upon such sale, a direct shipper shall remit the gallonage tax as imposed by § 57-3-302.

(2) The taxes levied on sales made by a direct shipper as authorized by this section shall become due and payable on the first day of each month following the month during which the sales occur, and shall become delinquent if not paid on or before the twentieth day of each such following month. For the purpose of ascertaining the amount of tax due, it is the duty of any direct shipper licensed pursuant to this section to transmit to the commissioner of revenue appropriate returns on forms prescribed by the commissioner.

(3) Upon request of the commission or its designated agent, any direct shipper licensed pursuant to this section shall provide to the commission, under penalty of perjury, a list of any wine shipped to an address within this state, including the addressee.

(4) The commission may enforce the requirements of this section by administrative action, may suspend or revoke a direct shipper's license and may accept an offer in compromise in lieu of suspension.

(5) A direct shipper that is found to have violated this title, in addition to any fine imposed by the commission, shall reimburse the commission for all costs incurred in connection with the investigation and administrative action, including the out-of-pocket costs and reasonable personnel costs.

(6) No direct shipper may avoid liability under this section by subcontracting with a third party to perform its obligations required pursuant to this section.

(f) The commission and the department of revenue are authorized to promulgate rules and regulations that may be necessary to implement this section, in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(g)(1) It is an offense for a person who does not possess a direct shipper's license to ship wine to residents of this state.

(2) A violation of subdivision (g)(1) is a Class E felony, punishable by a fine only.

(h)(1) Each common carrier that contracts with a direct shipper under this section for delivery of wine, beer, or other alcoholic beverages into this state shall prepare and file monthly with the department of revenue a report of

known wine, beer, or other alcoholic beverage shipments containing the name of the common carrier making the report, the period of time covered by the report, the name and business address of the consignor, the name and address of each consignee, the weight of the package delivered to each consignee, a unique tracking number, and the date of delivery. Reports received by the department of revenue must be made available to the public pursuant to the open records law, compiled in title 10, chapter 7.

(2) Upon the request of the commissioner of revenue, any records supporting the report must be made available to the department of revenue within a reasonable time after the commissioner makes a written request for such records. Any records containing information relating to such reports must be retained and preserved for a period of two (2) years, unless destruction of the records prior to the end of such retention period is authorized in writing by the department of revenue. Such records must be open and available for inspection by the department of revenue upon written request. Reports must also be made available to any law enforcement agency or regulatory body of any local government in this state in which the common carrier making the report resides or does business.

(3) Any common carrier that willfully fails to make reports in accordance with this section or that violates any rules of the department of revenue for the administration and enforcement of this section is subject to a notification of violation. If a common carrier continually fails to make reports, the common carrier may be fined in an amount not to exceed five hundred dollars ($500) for each delivery not reported to the department of revenue. Unpaid fines assessed under this subdivision (h)(3) must be collected in accordance with title 67, chapter 1.

(4) This subsection (h) does not apply to common carriers regulated under 49 U.S.C. §§ 10101 et seq., or to rail trailer-on-flatcar/container-on-flatcar (TOFC/COFC) service, as defined in 49 CFR § 1090.1, or highway TOFC/COFC service provided by a rail carrier, either itself or jointly with a motor carrier, as part of continuous intermodal freight transportation, including, without limitation, any other TOFC/COFC transportation as defined under federal law.

57-3-224. Delivery service license.

(a)(1) There is created a delivery service license to be issued by the commission to any delivery service that delivers or facilitates delivery of prepared food from restaurants or items from a retail store to customers as part of the delivery service's business and seeks to deliver sealed packages of alcoholic beverages or beer or both sold by any retailer licensed under this chapter, or an off-premises retail permittee licensed under § 57-5-103 as part of such delivery service. If a delivery service licensed under this section is delivering alcoholic beverages or beer purchased from a retailer in accordance with this subsection (a), the delivery service shall not deliver the alcoholic beverages or beer to a customer who resides or is located at the time of the delivery:

(A) More than fifty (50) miles from the licensed premises of the retailer at which the alcoholic beverages or beer were purchased; or

(B) In any county other than the county in which such retailer is located or a county contiguous to such county.

(2) A delivery service includes, for purposes of this title, a technology services company that provides software or an application for connecting customers, retailers, or restaurants to a delivery driver. A delivery service does not include, and no license is required under this title to operate, a technology services company that does not employ or contract with delivery drivers but rather provides software or an application that connects retail licensees with consumers for the delivery of alcoholic beverages or beer from the retailer pursuant to § 57-3-406(j) or a company that ships wine pursuant to § 57-3-217. This section does not apply to a "motor carrier" or "freight forwarder" as those terms are defined in 49 U.S.C. § 13102, or to an "air carrier" as that term is defined in 49 U.S.C. § 40102.

(b)(1) Any person, partnership, limited liability company, or corporation desiring to deliver sealed packages of alcoholic beverages or beer sold by a retailer licensed under § 57-3-204 or an off-premise retail permittee licensed under § 57-5-103 as part of such delivery service shall make application to the commission for a delivery service license, which application shall be in writing and verified, on forms herein authorized to be prescribed and furnished; and the commission shall, subject to the restrictions of this section, issue such license.

(2)(A) Any person applying for a delivery service license shall be twenty-one (21) years of age or older and must not have been convicted of a felony as described in § 57-3-210(c).

(B) The commission may issue a delivery service license to any person, partnership, limited liability company, or corporation that is registered to do business in this state regardless of the residence of the ownership of such entity.

(c) Each applicant for a delivery service license shall pay to the commission a one-time, nonrefundable fee in the amount of three hundred dollars ($300) when the application is submitted for review. A delivery service license shall not be issued by the commission until the applicant pays the annual license fee of one hundred fifty dollars ($150).

(d) Each delivery service licensee shall conduct, or have a third party conduct, a local and national criminal background check on any potential employee or independent contractor that seeks to be licensed pursuant to § 57-3-225. Such background check shall include a multistate criminal records locator or other similar commercial nationwide database with validation.

(e) It is the duty of each delivery service licensee to ensure that each employee or independent contractor, delivering alcoholic beverages or beer pursuant to § 57-3-406(k) for the licensee, is licensed pursuant to § 57-3-225.

(f) A delivery service may use either employees or independent contractors as part of such delivery service. Any person delivering products for a delivery service shall comply with the provisions contained in § 57-3-225 related to delivery drivers in order to deliver alcoholic beverages or beer or both as provided in this section.

57-3-225. Delivery employee license.

(a) Beginning July 1, 2018, each delivery service licensed under § 57-3-224 shall be required to annually file a report stating the number of delivery drivers used by the delivery service to deliver alcoholic beverages, beer, or both, in the twelve (12) months preceding the date of the report. Each delivery

service licensee shall maintain for each delivery driver covered by the licensee's delivery service license, records sufficient to verify the identity of each delivery driver, a copy of each delivery driver's license, and a copy of the background check conducted for that delivery driver pursuant to § 57-3-224(d).

(b) Each delivery service licensee may employ or contract with any person meeting the following requirements:

(1) Is at least twenty-one (21) years of age;

(2) Has had a background check conducted pursuant to § 57-3-224(d) to ensure the individual has not been convicted of any crime involving the sale and distribution of alcohol within the previous seven (7) years or has not been convicted of any felony within the previous five (5) years; and

(3) Has a valid driver license.

(c) In addition to the annual license fee in § 57-3-224(c), a delivery service licensee shall pay a fee based on the total number of delivery service employees or independent contractors used by the delivery service licensee in the prior year. The fee shall be as follows:

(1) 0-15 delivery drivers — $50

(2) 16-30 delivery drivers — $100

(3) 31-45 delivery drivers — $150

(4) 46-60 delivery drivers — $200

(5) 61-100 delivery drivers — $250

(6) 101-150 delivery drivers — $300

(7) 151-200 delivery drivers — $350

(8) Fifty dollars ($50.00) for each additional fifty (50) delivery drivers over two hundred (200) until a maximum of one thousand dollars ($1,000).

(d) With respect to the delivery of alcoholic beverages, beer, or both pursuant to this chapter, a delivery service company may be subject to fines or the suspension or revocation of its license from the commission based on the conduct of a delivery driver. A retailer is not subject to a fine or the suspension or revocation of its license based on conduct of a delivery service driver after the driver picks up alcoholic beverages or beer from the retailer.

57-3-406. Regulation of retail sales.

(a)(1)(A) Except for retailers licensed under § 57-3-204, no person, corporation or other entity shall, directly or indirectly, operate any licensed retail establishment selling alcoholic spirituous beverages, not including wine, for off-premises consumption in this state.

(B) "Indirectly" means any kind of interest in such a retail business by way of stock ownership, loan, partner's interest or otherwise.

(C) A landlord shall be deemed to have an indirect interest in such a retail business when the lease agreement is based upon a percentage of profits or any other factor based upon sales of alcoholic beverages by the tenant as distinguished from being simply an interest in land for a period of time at a definite rate.

(2) Except as provided in this subsection (a), nothing shall prohibit the holder of a retail license from having more than one (1) retail license; provided, however, that the holder of a retail license shall not have more than two (2) retail licenses. If the commission has issued more than two (2) licenses to any person prior to April 12, 2016, such person shall be allowed

to continue to have all such licenses and may renew all such licenses.

(3) In any municipality or county in which the issuance of two (2) or more retail licenses have been authorized under § 57-3-208(c), no retail licensee shall hold more than fifty percent (50%) of the licenses authorized for issuance in such municipality or county.

(4) For five (5) years beginning January 1, 2014, no retail license shall be issued to any applicant for a new location that is within one thousand five hundred feet (1,500′) of an existing operating establishment holding a license issued pursuant to § 57-3-204 as of July 1, 2014, (an "existing licensed premises") if the applicant for such new retail license already holds one (1) or more retail licenses issued under § 57-3-204, unless the commission receives the written consent from each retail licensee owning an existing licensed premises within one thousand five hundred feet (1,500′) of such new location. Notwithstanding any law to the contrary, the holder of one (1) or more retail licenses issued under § 57-3-204 may purchase the business or assets of an existing licensed premises and obtain a retail license to operate such existing licensed premises, as the same may be expanded or modified, from time to time. Nothing in this subdivision (a)(4) shall be deemed to prohibit a retailer licensed under § 57-3-204 from obtaining a new or replacement license in connection with the relocation of an existing licensed premises, as long as the new location is within the jurisdiction of the municipality or county issuing the certificate required under § 57-3-208 for such existing licensed premises.

(b) Nothing in this chapter shall prohibit a retailer from offering a discount in such manner as the retailer deems appropriate as long as the discount being offered is not below the cost paid by the retailer to purchase the alcoholic beverages from the wholesaler.

(c) No retailer shall sell any alcoholic beverages or beer to any person who is visibly intoxicated, nor shall any retailer selling alcoholic beverages or beer sell to any person accompanied by a person who is visibly intoxicated.

(d)(1) A retailer or any employee thereof shall not make or permit to be made any sales of alcoholic beverages or beer to minors. Prior to making a sale of alcoholic beverages for off-premises consumption, the adult consumer whose physical appearance does not reasonably demonstrate an age of fifty (50) years or older must present to the retailer or any employee of the retailer a valid, government-issued document, such as a driver license or other form of identification deemed acceptable to the retailer that includes the photograph and birth date of the adult consumer attempting to make an alcoholic beverage purchase. Persons exempt under state law from the requirement of having a photo identification shall present identification that is acceptable to the retailer. The retailer 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 alcoholic beverages for off-premises consumption shall be made to a person whose physical appearance does not reasonably demonstrate an age of fifty (50) years or older who does not present such a document or other form of identification to the license holder or any employee of the license holder in a face-to-face transaction.

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

(3) The commission may, upon finding that a licensee has violated subdivision (d)(1) 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.

(e) No retail store shall sell, give away, or otherwise dispense alcoholic beverages except between the hours of eight o'clock a.m. (8:00 a.m.) and eleven o'clock p.m. (11:00 p.m.) on Monday through Saturday and between ten o'clock a.m. (10:00 a.m.) and eleven o'clock p.m. (11:00 p.m.) on Sunday.

(f) Except as provided in § 57-3-404(e)(4)(E), no retailer of alcoholic beverages shall keep or permit to be kept upon the licensed premises any alcoholic beverages in any unsealed bottles or other unsealed containers except such open bottles and containers of damaged and unmarketable product retained by the retail licensee for purpose of return to a wholesaler or such open bottles and containers required for conducting a sales demonstration as permitted by § 57-3-404(h).

(g) No retailer as herein defined shall own, store or possess upon the licensed premises any merchandise unless the retailer shall also possess such documentation as prescribed by the commission to demonstrate that the taxes imposed in this chapter have been paid. No retailer may store any alcoholic beverages, wine, or beer at any location other than the licensed premises and the retailer shall not hold, store, or accept delivery of any products intended for another retailer.

(h) Notwithstanding subsection (e), a retailer shall not sell or give away any alcoholic beverages on Christmas, Thanksgiving, or Easter.

(i) No retail food store shall keep, or permit to be kept, upon the licensed premises any wine in any unsealed bottles or other unsealed containers except such open bottles and containers of damaged and unmarketable product retained by the retail food store for purpose of return to a wholesaler. This subsection (i) shall not apply to the premises within a retail food store that has a license under chapter 4 of this title.

(j)(1) Notwithstanding any provision of this title to the contrary, retailers licensed under § 57-3-204 are authorized, for a fee or without a fee, to provide, within the state, consulting services related to alcoholic beverages and to the products, merchandise, and supplies that the retailer is authorized to sell under § 57-3-404(e), and may supply, sell, deliver, and install products authorized to be sold by the retailer to locations outside of the licensed premises.

(2) Any licensee making a delivery of alcohol, wine, or beer is subject to subsections (c) and (d) except that no person receiving delivery of alcohol, wine, or beer shall be required to purchase such items at the physical location of the retailer. The licensee shall require a valid, government-issued document, such as a driver license or other form of identification deemed acceptable to the retailer that includes the photograph and birth date of the person receiving the delivery and that shall be deemed sufficient to meet the requirements of this subdivision (j)(2) and subsection (d). A record of all deliveries shall be maintained in writing and must contain all information concerning the recipient, products delivered, the time of delivery, and place of delivery.

(3) Any delivery made by a retailer pursuant to this subsection (j) must be made only to the physical address indicated by the individual placing the delivery order. The delivery must be documented by a verification of the

delivery signed by the recipient.

(k)(1) Except as otherwise provided in subdivision (k)(3), notwithstanding any law or rule to the contrary, a delivery service that delivers prepared food from restaurants or food from a retailer to customers as part of the delivery service's business is authorized to deliver sealed packages of alcoholic beverages or beer or both sold by a retailer licensed under § 57-3-204 to the delivery service's customers and to deliver sealed packages of beer sold by an off-premise retail permittee licensed under § 57-5-103 to the delivery service's customers during the hours that these products may legally be sold if:

(A) The amount of alcoholic beverages or beer delivered to a customer is in such an amount to satisfy the customer's order; provided, however, if an amount ordered exceeds two gallons (2 gal.), then the delivery driver shall have available for inspection by a commission representative or other law enforcement official, a copy of the customer's order indicating the:

(i) Name of the customer and the name of the recipient of the alcoholic beverages or beer;

(ii) Address where the alcoholic beverages or beer is to be delivered; and

(iii) Amount of the alcoholic beverages or beer to be delivered;

(B) At least fifty percent (50%) of the delivery service's gross sales come from the delivery of food products or prepared food;

(C) Any delivery service employee who delivers alcoholic beverages or beer is twenty-one (21) years of age or older and is licensed pursuant to § 57-3-225;

(D) The delivery service is licensed pursuant to § 57-3-224;

(E) The delivery service has a written agreement with the retailer or permittee to deliver the retailer's or permittee's alcoholic beverages or beer to customers;

(F) Any delivery service employee, who delivers alcoholic beverages or beer, requires the customer to show a valid, government-issued document, such as a driver license or other form of identification deemed acceptable to the employee that includes the photograph and birth date of the customer before the customer is allowed possession of the alcoholic beverages or beer; and

(G) Any delivery made by a delivery service is made only to the physical address indicated by the individual placing the delivery order. The delivery must be documented by a verification of the delivery signed by the recipient.

(2) A delivery service described in subdivision (k)(1) shall not be prohibited from charging a fee either to customers, retailers, or beer permittees with whom the delivery service has previously entered into a written agreement as required by subdivision (k)(1)(E) when delivering sealed packages of alcoholic beverages or beer sold by a retailer or beer permittee.

(3) If a delivery service is delivering alcoholic beverages or beer purchased from a retailer in accordance with subdivision (k)(1), the delivery service shall not deliver the alcoholic beverages or beer to a customer who resides or is located at the time of the delivery at a distance greater than one hundred (100) miles from the licensed premises of the retailer at which the alcoholic beverages or beer was purchased.

57-3-811. Hours for selling or giving away wine. [Effective until January 1, 2019. See the version effective on January 1, 2019.]

No retail food store shall sell, give away, or otherwise dispense wine except between the hours of eight o'clock a.m. (8:00 a.m.) and eleven o'clock p.m. (11:00 p.m.) on Monday through Saturday.

57-3-819. Prohibition against sale or gift of wine on certain holidays.

Notwithstanding any law to the contrary, a retail food store wine licensee shall not sell or give away wine on Christmas, Thanksgiving, or Easter.

57-3-1001. Short title.

This part shall be known and may be cited as the "Intoxicating Liquor Sales Law."

57-3-1002. Part definitions.

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

(1) "Basic cost of intoxicating liquor" means the invoice cost of intoxicating liquor to the retailer in the quantity last purchased from the wholesaler at prices generally available in the marketplace, absent any cash or other discounts, incentives and/or concessions of any kind, whether such discounts, incentives, or concessions are offered within or outside of this state, to which shall be added the full face value of any taxes, freight, or delivery fees which may be required by any tax law of this state imposed upon intoxicating liquor supplied to retailers now in effect or hereafter enacted, and any other taxes or fees imposed by this title, if not already included by the wholesaler in this price;

(2) "Commission" means the alcoholic beverage commission;

(3) "Cost of doing business by the retailer" is ten percent (10%) of the basic cost of intoxicating liquor to the retailer;

(4) "Cost to the retailer" means the "basic cost of intoxicating liquor" to the retailer plus the "cost of doing business by the retailer";

(5) "Intoxicating liquor" means and includes alcohol, spirits, liquors, and every liquid or solid, patented or not, containing alcohol, spirits, liquor, or wine and capable of being consumed by human beings, but nothing in this part shall be construed or defined as including or relating to the sale of any beverage having an alcoholic content of eight percent (8%) by weight or less;

(6) "Prices generally available in the marketplace" means the price of intoxicating liquor based upon a purchase from a wholesaler on terms and conditions:

(A) Typically available to retailers in the trade area in which the retailer is located; and

(B) In accordance with the requirements set forth in § 57-3-404;

(7) "Retailer" means the holder of a retailer license under § 57-3-204;

(8) "Sell at retail", "sales at retail", or "retail sales" means and includes any transfer of title to tangible personal property for a valuable consideration made in the ordinary course of trade or usual prosecution of the seller's business, to the purchaser for consumption or use; and

(9) "Wholesaler" has the same meaning as provided in § 57-3-101(a).

57-3-1003. Violations — Penalty.

(a) It is a Class C misdemeanor for any retailer to advertise, offer to sell, or sell at retail, intoxicating liquor at less than cost to the retailer.

(b) The advertising, sale, or offer to sell of intoxicating liquor by any retailer at less than cost to the retailer shall be prima facie evidence of both a violation of this part, and of intent to injure competitors or destroy substantially or lessen competition.

57-3-1004. Persons assisting or aiding in violation — Penalty.

Any individual who, as a director, officer, partner, member, or agent of any person violating this part, assists or aids, directly or indirectly, in such violation, equally with the person for whom such individual acts, commits a Class C misdemeanor.

57-3-1005. Contracts in violation of part void.

Any contract, express or implied, made by any person, firm, or corporation in violation of this part is declared to be an illegal and void contract and no recovery thereon shall be had.

57-3-1006. Parties injured by violations — Right to maintain action — Injunction — Damages.

(a)(1) Any person or entity injured by any violation of this part, or any trade association which is representative of such a person or entity, may maintain an action in any court of equitable jurisdiction to prevent, restrain, or enjoin such violation.

(2) If, in such action, a violation of this part shall be established, the court shall enjoin and restrain or otherwise prohibit such violation and, in addition thereto, shall assess in favor of the plaintiff and against the defendant the costs of the suit.

(3) In such action, it shall not be necessary that actual damages to the plaintiff be alleged or proved, but where alleged and proved, the plaintiff in the action, in addition to such injunctive relief and costs of suit, shall be entitled to recover from the defendant the amount of actual damages sustained by the plaintiff.

(b) In the event no injunctive relief is sought or required, any person injured by a violation of this part may maintain an action for damages alone in any court of general jurisdiction, and the measure of damages in such action shall be the same as prescribed in subsection (a).

57-3-1007. Enforcement by commission.

(a) The commission shall administer and enforce this part.

(b)(1) For an initial violation of or noncompliance with any provision of this part by a retailer, a penalty shall be imposed not to exceed one thousand dollars ($1,000).

(2) For any second violation of or noncompliance with any provision of this part by any retailer who has previously been found in violation pursuant to subdivision (b)(1), a penalty shall be imposed not to exceed two thousand five hundred dollars ($2,500).

(3) For any subsequent violation or violations of or noncompliance with any provision of this part, by any retailer who has previously been found in violation pursuant to subdivision (b)(2), a penalty shall be imposed not to exceed five thousand dollars ($5,000).

(c) Any retailer who is assessed a civil penalty pursuant to this section, and who continues to engage in the unauthorized sale, distribution, or handling of intoxicating liquor in this state, either directly or through any agent or third party acting on behalf of such retailer, shall be charged with an additional violation of this part.

(d) Any retailer who is adversely affected by a decision of the commission may petition the commission for a hearing which will be held in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(e) In enforcing this part, the commission shall consider the cost and effectiveness of administration and endeavor to administer this part in the most cost-efficient manner.

57-3-1008. Applicability.

This part shall not apply to sales at retail made where intoxicating liquors are:

(1) Sold upon the complete final liquidation of a business;

(2) Advertised, offered for sale, or sold by any fiduciary or other officer acting under the order or direction of any court;

(3) Closeouts and case discounts; or

(4) Such other occasional discounts as defined by the commission.

57-4-101. Premises on which certain sales and consumption authorized.

(a) It is lawful to sell wine and other alcoholic beverages as defined in § 57-4-102, and beer as defined in § 57-6-102, to be consumed on the premises of, or within the boundaries of, any:

(1) Hotel, commercial passenger boat company, paddlewheel steamboat company, restaurant, commercial airlines, or passenger trains meeting the requirements hereinafter set out, within the boundaries of the political subdivisions, wherein such is authorized under § 57-4-103;

(2) Premier type tourist resort or club as defined in § 57-4-102, to guests of such resort and to members and guests of such clubs, subject to the further provisions of this chapter other than § 57-4-103;

(3) Convention center as defined in § 57-4-102, to those in attendance at the convention center, subject to the further provisions of this chapter other than §§ 57-3-210(b)(1) and 57-4-103;

(4) Historic performing arts center as defined in 57-4-102, to those in attendance at the performing arts center, subject to the further provisions of this chapter other than § 57-4-103;

(5) Historic interpretive center as defined in § 57-4-102, to those in attendance at such interpretive center, subject to the further provisions of this chapter other than §§ 57-4-103 and 57-3-210(b)(1);

(6) Community theater as defined in § 57-4-102, to those in attendance at such community theater, subject to the further provisions of this chapter other than § 57-4-103;

(7) Historic mansion house site as defined in § 57-4-102, subject to the further provisions of this chapter other than § 57-4-103;

(8) Terminal building of a commercial air carrier airport as defined in § 57-4-102, subject both to the further provisions of this chapter other than § 57-4-103, and to the approval of a majority of the governing board of such commercial air carrier airport;

(9) Zoological institution as defined in § 57-4-102, to those in attendance at the zoological institution, subject to the further provisions of this chapter other than § 57-4-103. No such wine, alcoholic beverages or beer shall be served during the regular operating hours where the institution is open to the general public unless a special event is scheduled for fund-raising purposes which is by invitation or for which an admission is charged for such event;

(10) Museum as defined in § 57-4-102, to those in attendance at the museum, subject to the further provisions of this chapter other than § 57-4-103. No alcoholic beverage or beer shall be served during the regular operating hours when the museum is open to the general public except at a restaurant located on the premises of such museum or at a special event scheduled for fund-raising purposes when such event is either by invitation or admission is charged;

(11) Commercial airline travel club as defined in § 57-4-102, located within a terminal building of a commercial air carrier airport as defined in § 57-4-102, subject both to the further provisions of this chapter, other than § 57-4-103, and to the approval of a majority of the governing board of such commercial air carrier airport;

(12) Public aquarium as defined in § 57-4-102, to those in attendance at the public aquarium subject to this chapter;

(13) Aquarium exhibition facility as defined in § 57-4-102, to those in attendance at such facility subject to the provisions of this chapter. Such alcoholic beverages, wine and beer shall only be sold on such premises at special functions, wherein attendance is limited to invited guests or groups, the function is not open to the general public, and the area in which the function is held is not open to the general public during such function;

(14) Caterer licensed under this chapter as well as at such other sites as the licensed caterer has given advanced notice to the commission. Such sites shall be considered to be within the licensed premises for the purposes of this chapter;

(15) Sports authority facility as defined in § 57-4-102, to those in attendance at such sports authority facility, subject to the further provisions of this chapter. A sports authority facility as defined in § 57-4-102(34)(A) constitutes an urban park center for the purposes of the taxes provided in § 57-4-301;

(16) Theater as defined in § 57-4-102, to those in attendance at such theater, subject to the further provisions of this chapter;

(17) Retirement center as defined in § 57-4-102;

(18) Tennessee River resort district as defined in § 57-4-102, subject to the further provisions of this chapter other than § 57-4-103;

(19) Civic arts center as defined in § 57-4-102, to those in attendance at the civic arts center, subject to the further provisions of this chapter other than § 57-4-103;

(20) Limited service restaurant as defined in § 57-4-102, wherein such is

authorized under § 57-4-103; and

(21) Festival operator as defined in § 57-4-102, to those in attendance at a festival, subject to the further provisions of this chapter, and except as otherwise provided in § 57-4-102.

(b) It is lawful to sell wine and other alcoholic beverages as defined in § 57-4-102, to be consumed on the premises of any:

(1) Permanently constructed facility within an urban park center as defined in § 57-4-102, to those in attendance at the urban park center, subject to the further provisions of this chapter other than §§ 57-4-103 and 57-3-210(b)(1);

(2) Any motor speedway as defined in § 57-4-102, to the patrons and guests of such motor speedway, subject to the further provisions of this chapter other than § 57-4-103. The phrase "premises of any motor speedway" includes any permanent or temporary structure erected on the motor speedway site as defined in § 57-4-102(23)(A); and

(3) Country club located on an historic property, as defined in § 57-4-102, to the patrons and guests of such country club, subject to the further provisions of this chapter other than § 57-4-103.

(c) It is lawful to sell wine, as defined in § 57-4-102, to be consumed on the premises of any:

(1) Restaurant located within the boundaries of any political subdivision which has authorized the sale of alcoholic beverages for consumption on the premises as provided in § 57-4-103, subject to the further provisions of this chapter. Notwithstanding the minimum seating requirement for a restaurant in § 57-4-102, a restaurant operating under this subsection (c) shall have a seating capacity of at least forty (40) people at tables, except in central business improvement districts located in counties having a population of eight hundred thousand (800,000) or more, according to the 2000 federal census or any subsequent federal census where such restaurants shall have a seating capacity of at least twenty-four (24) people; and

(2) Bed and breakfast establishment as defined in § 57-4-102, to the guests of the bed and breakfast establishment, subject to the further provisions of this chapter other than § 57-4-103.

(d) It is lawful to serve wine and other alcoholic beverages as defined in § 57-3-101, and beer as defined in § 57-6-102, to be consumed on the premises of any club as defined in § 57-4-102(8)(G), to the guests of the club, subject to the further provisions of this chapter other than § 57-4-103; provided, that such club is located in a county having a population of not less than one hundred three thousand one hundred (103,100) nor more than one hundred three thousand four hundred (103,400), according to the 1990 federal census or any subsequent federal census, and in a municipality which lies within two (2) contiguous counties.

(e) It is lawful to serve wine as defined in § 57-3-101, and beer as defined in § 57-6-102, to be consumed on the premises of any restaurant as defined in § 57-4-102(30)(F), located in the unincorporated areas of any county having a population of not less than thirty thousand two hundred (30,200) nor more than thirty thousand four hundred seventy-five (30,475), according to the 1990 federal census or any subsequent federal census, subject to the further provisions of this chapter other than § 57-4-103.

(f) It is lawful to serve wine as defined in § 57-3-101, to be consumed on the premises of any historic inn as defined in § 57-4-102, to the patrons and guests of the historic inn, subject to the further provisions of this chapter other than

§ 57-4-103.

(g) It is lawful for a charitable, nonprofit or political organization possessing a special occasion license pursuant to § 57-4-102 to serve or sell wine and other alcoholic beverages as defined in § 57-4-102, and beer as defined in § 57-6-102, to be consumed on the designated premises, or sold or donated in sealed containers for off-premises consumption within the boundaries of a political subdivision wherein the sale of alcoholic beverages at retail has been approved pursuant to § 57-3-106 or wherein the sale of alcoholic beverages for consumption has been approved pursuant to § 57-4-103. A special occasion license may also be issued for an event within the unincorporated portion of a county if at least one (1) municipality in such county has approved the sale of alcoholic beverages at retail pursuant to § 57-3-106 or the sale of alcoholic beverages for consumption pursuant to § 57-4-103.

(h) Any hotel or motel licensed under this chapter may dispense sealed alcoholic beverages and beer to adult guests through locked, in-room units. Distilled spirits so dispensed shall be in bottles not exceeding fifty milliliters (50 ml.). No person under the age of twenty-one (21) shall be issued or supplied with a key by any hotel or motel for such units. Such units may only be located in any such hotel or motel if the voters of such municipality have approved the consumption of alcoholic beverages on the premises by referendum, and in any county in which such municipalities are located if the voters of such county have approved the consumption of alcoholic beverages on the premises by referendum.

(i) A restaurant or hotel licensed under this chapter may seek an additional license permitting the restaurant or hotel to distribute and sell wine, beer and other alcoholic beverages at locations other than the licensed premises if the restaurant or hotel is providing catering services, if such location is within a jurisdiction where such sales are authorized. A caterer licensed under this chapter may distribute and sell wine, beer and other alcoholic beverages at locations other than the permanent catering hall if the caterer is providing catering services at a location that is within a jurisdiction where such sales are authorized.

(j) It is lawful to serve wine as defined in § 57-4-102 within a special historic district as defined in § 57-4-102 on Fridays and Saturdays. Such establishments serving wine within the special historic district shall not be required to obtain a special occasion license pursuant to § 57-4-102 or be required to obtain server permits pursuant to chapter 3, part 7 of this title. This section shall not apply to any restaurant or bar located within the special historic district.

(k) It is lawful to serve wine, as defined in § 57-3-101, to be consumed on the premises of any restaurant, as defined in § 57-4-102(30)(G), located in any county having a population of not less than sixty-nine thousand four hundred (69,400) nor more than sixty-nine thousand five hundred (69,500), according to the 2000 federal census or any subsequent federal census, subject to the further provisions of this chapter other than § 57-4-103.

(*l*) It is lawful to serve wine as defined in § 57-3-101, to be consumed on the premises of any restaurant as defined in § 57-4-102(30)(I), located in any county having a population of not less than one hundred twenty-six thousand six hundred (126,600) nor more than one hundred twenty-six thousand seven hundred (126,700), according to the 2000 federal census or any subsequent federal census, subject to the further provisions of this chapter other than

§ 57-4-103.

(m) A premier type tourist resort, as defined in § 57-4-102(27)(EEE), licensed pursuant to this part, shall be allowed to sell beer, as defined in § 57-5-101(b), to its patrons or guests, for either on-premises or off-premises consumption provided such premier type tourist resort, as defined in § 57-4-102(27)(EEE), obtains a permit, pursuant to chapter 5 of this title, issued by the county or city where such premier type tourist resort is located.

(n) A licensee who qualifies for a restaurant license, limited service restaurant license, or hotel license may also serve alcoholic beverages in any area of the premises designated on the application that is used for the purpose of entertainment activities. Entertainment activities may include, but are not limited to, bowling, billiards, games, auditoriums, darts, or golf driving ranges. Any area used for entertainment activities shall have table service or be within close observation distance from the service area of the facility as determined by the commission.

(o) It is lawful to furnish, dispense, or give away alcoholic beverages and beer without a license or permit issued by the commission at a private party or private event.

(p) An entity licensed or applying for a license under subsection (a) may include in the entity's designation of its premises any contiguous area owned or controlled by the entity for purposes of on-premises consumption of alcoholic beverages and beer. If the contiguous area used for on-premises consumption is unenclosed, the entity shall make reasonable efforts to ensure that a customer cannot leave the premises with an alcoholic beverage or beer purchased on the premises by using barriers to prevent the ingress and egress of customers to and from the premises. If more than one (1) entity licensed under subsection (a) operates within the same building or facility, the designations of premises under this subsection (p) may overlap; provided, that each entity serves alcoholic beverages and beer in a glass or cup identifying the entity selling the alcoholic beverages or beer for on-premises consumption.

57-4-102. Chapter definitions.

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

(1) "Alcoholic beverage" or "beverage" means and includes alcohol, spirits, liquor, wine, and every liquid containing alcohol, spirits, wine and capable of being consumed by a human being, other than patented medicine or beer as defined in § 57-5-101(b). Notwithstanding any provision to the contrary in this title, "alcoholic beverage" or "beverage" also includes any product containing distilled alcohol capable of being consumed by a human being manufactured or made with distilled alcohol irrespective of alcoholic content, including any infused product;

(2) "Aquarium exhibition facility" means an enclosed facility possessing each of the following characteristics:

(A) The facility is owned and operated by a bona fide charitable or nonprofit organization that also owns and operates a "public aquarium" as defined in subdivision (29);

(B) The facility contains a minimum area of ten thousand square feet (10,000 sq. ft.); and

(C) The facility is used for either or both of the following purposes:

(i) The exhibition to the public of artifacts, physical objects, pictures

and movies; or

(ii) To aid in the education of the public by means of interactive displays or stations, learning laboratories, and classroom areas for instruction in the physical sciences, natural history or other educational disciplines;

(3)(A) "Bed and breakfast establishment" has the same meaning as set forth in § 68-14-502(1)(A); provided, that such bed and breakfast establishment is located in a county having a population of not less than fifty-one thousand three hundred fifty (51,350) nor more than fifty-one thousand four hundred fifty (51,450), according to the 1990 federal census or any subsequent federal census and has eleven (11) furnished guest rooms;

(B) "Bed and breakfast establishment" also means an establishment:

(i) Founded in July 1987;

(ii) With twelve (12) rooms and five (5) cottages;

(iii) Located on approximately fifteen (15) acres;

(iv) Operating a full service day spa; and

(v) Located in a county with not less than eighty-nine thousand eight hundred (89,800) and not more than eighty-nine thousand nine hundred (89,900), according to the 2010 or any subsequent federal census;

(4) "Bona fide charitable or nonprofit organization" means any corporation which has been recognized as exempt from federal taxes under § 501(c) of the Internal Revenue Code (26 U.S.C. § 501(c)), or any organization having been in existence for at least two (2) consecutive years which expends at least sixty percent (60%) of its gross revenue exclusively for religious, educational or charitable purposes;

(5) "Bona fide political organization" means any political campaign committee as defined in § 2-10-102 or any political party as defined in § 2-13-101;

(6) "Caterer" means a business engaged in offering food and beverage service for a fee at various locations, which:

(A) Operates a permanent catering hall on an exclusive basis or restaurant;

(B) Has a complete and adequate commercial kitchen facility; and

(C) Is licensed as a caterer by the Tennessee department of health;

(7) "Civic arts center" means a complex that serves as a community center for the arts and further possesses the following characteristics:

(A) Has a performance hall with at least one thousand one hundred (1,100) seats;

(B) Has a flexible theater;

(C) Consists of two (2) buildings and an outdoor plaza between the buildings;

(D) Allows alcoholic beverages to be served when the civic arts center is hosting ticketed events, private functions or is rented to another party hosting an event open to the public; and

(E) Is located in a county having a population of not less than one hundred five thousand eight hundred (105,800) nor more than one hundred five thousand nine hundred (105,900), according to the 2000 federal census or any subsequent federal census;

(8)(A) "Club" means a nonprofit association organized and existing under the laws of this state, which has been in existence and operating as a

nonprofit association for at least two (2) years prior to the application for a license hereunder, having at least one hundred (100) members regularly paying dues, organized and operated exclusively for pleasure, recreation and other nonprofit purposes, no part of the net earnings of which inures to the benefit of any shareholder or member; and owning, hiring or leasing a building or space therein for the reasonable use of its members with suitable kitchen and dining room space and equipment and maintaining and using a sufficient number of employees for cooking, preparing and serving meals for its members and guests; provided, that no member or officer, agent or employee of the club is paid, or directly or indirectly receives, in the form of salary or other compensation, any profits from the sale of spirituous liquors, wines, champagnes or malt beverages beyond the amount of such salary as may be fixed by its members at an annual meeting or by its governing body out of the general revenue of the club. For the purpose of this section, tips which are added to the bills under club regulations shall not be considered as profits hereunder. The premises, as provided in § 57-4-101(a)(2) for a club, shall also include the golf course, tennis courts and the area immediately surrounding the swimming pool, if a club offers such amenities. The alcoholic beverage commission shall have specific authority through rules and regulations to define with specificity the terms used herein and to impose additional requirements upon applicants seeking a club license not inconsistent with the definition above;

(B) "Club" also means an organization composed of members of the Tennessee national guard, air national guard, or other active or reserve military units which operate facilities located on land owned or leased by this state and which are operated exclusively for the pleasure and recreation of such organization's members, dependents and guests and which are generally referred to as "NCO Clubs" or "Officers Clubs." Such NCO or officers clubs shall be subject to all of the requirements of subdivision (8)(A), except for those requirements relating to having a kitchen, kitchen equipment, and employees;

(C) "Club" also means a nonprofit association organized and existing under the laws of this state which is located in a county having a population of not less than twenty-eight thousand six hundred sixty (28,660) nor more than twenty-eight thousand six hundred ninety (28,690), according to the 1980 federal census or any subsequent federal census. Such club shall be located in a development containing no less than four hundred forty (440) acres and shall be organized and operated exclusively for the pleasure, recreation and other nonprofit purposes of its members and their guests. No part of the net earnings of the association shall inure to the benefit of any shareholder or member. The club shall provide to its members a regulation golf course, tennis courts, and a swimming pool. The club shall own, hire or lease a building or buildings for the reasonable use of its members with suitable kitchen and dining room space and equipment. Such club shall maintain and use a sufficient number of employees for cooking, preparing and serving meals for its members and guests. No member or officer, agent or employee of the club shall be paid, or directly or indirectly receive in the form of salary or other compensation any profits from the sale of alcoholic beverage or malt beverage beyond the amount of such salary as may be fixed by its members

at an annual meeting, or by its governing body out of the general revenues of the club. For the purpose of this section, tips which are added to the bills under club regulations shall not be considered as profits hereunder. The alcoholic beverage commission shall have specific authority through rules and regulations to define with specificity the terms used herein and to impose additional requirements upon applicants seeking a club license not inconsistent with this definition;

(D)(i) "Club" also means a for-profit recreational club organized and existing under the laws of this state and which has been in existence and operating for at least two (2) years prior to the application for a license. Such club shall have at least one hundred (100) members regularly paying dues, and shall be organized and operated exclusively for recreation, and providing to its members a regulation golf course and owning, hiring or leasing a building or buildings for the reasonable use of its members, with suitable kitchen and dining room space and equipment, and lodging facilities consisting of not less than ten (10) rooms. Such club shall maintain and use a sufficient number of employees for cooking, preparing and serving meals for its members and guests and providing lodging facilities to its members and guests. Other than the payment of dividends to the shareholders of the club from its net income derived from all of its operations, no member or officer, agent or employee of the club shall be paid, or shall directly or indirectly receive in the form of salary or other compensation, any profits from the sale of alcoholic beverages or malt beverages beyond the amount of such salary as may be fixed by the shareholders of the corporation at an annual meeting by its governing body out of the general revenues of the club. For the purpose of this section, tips which are added to the bills under club regulations shall not be considered as profits hereunder. The alcoholic beverage commission shall have specific authority through rules and regulations to define with specificity the terms used herein and to impose additional requirements upon applicants seeking a club license not inconsistent with this definition. The alcoholic beverage commission shall not issue a license to any for-profit recreational club which restricts membership based on race or religion or sex. In any proceeding concerning a license denial or revocation under this subdivision (8)(D)(i), no quota or numerical percentage shall be used to establish proof of the prohibited discrimination among the club's membership;

(ii) Notwithstanding § 57-4-101(a)(2) to the contrary, this subdivision (8)(D) shall not apply in any municipality which has not approved the sale of alcoholic beverages for consumption on the premises pursuant to § 57-4-103;

(iii) This subdivision (8)(D) only applies in counties having a population of not less than two hundred eighty-seven thousand seven hundred (287,700) nor more than two hundred eighty-seven thousand eight hundred (287,800), according to the 1980 federal census or any subsequent federal census;

(E)(i) "Club" also means a for-profit recreational club, organized and existing under the laws of this state, which has at least two hundred fifty (250) dues-paying members who pay dues of at least one hundred dollars ($100) a year. Such club shall have golf courses containing at

least twenty-seven (27) holes, collectively, for the use of its members and guests, and have suitable kitchen and dining facilities. Such club shall serve at least one (1) meal daily, five (5) days a week. Such club may not compensate or pay any officer, director, agent or employee any profits from the sale of alcoholic or malt beverages based upon the volume of such beverages sold. Such club shall not discriminate against any patron or potential member on the basis of gender, race, religion or national origin;

(ii) This subdivision (8)(E) only applies in counties having a population of not less than eighty thousand (80,000) nor more than eighty-three thousand (83,000), according to the 1990 federal census or any subsequent federal census;

(F)(i)*(a)* "Club" also means a for-profit recreational club, organized and existing under the laws of this state, which has at least two hundred twenty-five (225) dues-paying members who pay dues of at least three hundred dollars ($300) a year. Such club shall have a clubhouse with not less than five thousand square feet (5,000 sq. ft.), golf courses containing at least eighteen (18) holes, collectively, for the use of its members and guests, and have suitable kitchen and dining facilities. Such club shall serve at least one (1) meal daily, five (5) days a week. Such club may not compensate or pay any officer, director, agent or employee any profits from the sale of alcoholic or malt beverages based upon the volume of such beverages sold. Such club shall not discriminate against any patron or potential member on the basis of gender, race, religion or national origin. It is the express intention of the general assembly that the law concerning the purchase or possession of alcoholic beverages by persons under twenty-one (21) years of age be strictly enforced in such clubs;

(b) The premises, as provided in § 57-4-101(a)(2) for a club, whether such parcels comprising the club premises are contiguous or not, shall also include the golf course, including beverage carts; tennis courts; all areas of the clubhouse; the area immediately surrounding the swimming pool, if a club offers such amenities; and all other related recreational facilities;

(ii) This subdivision (8)(F) only applies in any county having a population of:

not less than	nor more than
21,800	22,100
22,600	23,000
34,850	35,000
80,000	83,000
103,100	103,400

according to the 1990 federal census or any subsequent federal census;

(G) "Club" also means a clubhouse owned and operated by a for-profit corporation, which is open to the public but has at least one hundred fifty (150) private members and seats at least one hundred (100) persons, that is a planned part of a residential development consisting of no less than two hundred fifty (250) acres and at least one hundred ninety (190) residential units, and such development contains an eighteen-hole golf

course under separate ownership; provided, that such club is located in a county having a population of not less than one hundred three thousand one hundred (103,100) nor more than one hundred three thousand four hundred (103,400), according to the 1990 federal census or any subsequent federal census and in a municipality which lies within two (2) contiguous counties;

(H) "Club" also means a facility owned by a for-profit corporation incorporated in Tennessee prior to September 30, 2000, as a private club which does not discriminate against members or potential members or bona fide guests of such members on the basis of gender, race, religion or national origin, and further possesses the following characteristics:

(i) Is located within three (3) miles of a municipal golf course owned and operated by a home-rule municipality located in a county having a charter form of government and having a population of not less than three hundred eighty-two thousand (382,000) nor more than three hundred eighty-two thousand one hundred (382,100), according to the 2000 federal census or any subsequent federal census;

(ii) Has, on July 3, 2002, a minimum of three hundred (300) members paying annual dues with a copy of membership applications on file on the premises, and which issues to its members a membership card which authorizes admittance of the member and bona fide guests of such member; and

(iii) Has a kitchen and dining area having a minimum seating capacity of seventy-five (75) in a building having at least eighteen hundred square feet (1800 sq. ft.);

(I)(i) "Club" also means a for-profit recreational club organized and existing under the laws of this state which has been in existence and operating for at least two (2) years prior to June 11, 2003, and which is located in any county having a population of not less than three hundred seven thousand eight hundred (307,800) nor more than three hundred seven thousand nine hundred (307,900), according to the 2000 federal census or any subsequent federal census, and further possesses the following characteristics:

(a) Has at least one hundred seventy-five (175) members paying annual dues and does not discriminate against members or potential members or bona fide guests of such members on the basis of gender, race, religion or national origin;

(b) Is organized and operated exclusively for recreation and providing a regulation eighteen-hole golf course for the use of its members and guests, and also offers for the use of its members and guests a swimming pool and tennis facility; and

(c) Has a clubhouse with not less than three thousand square feet (3,000 sq. ft.) with suitable kitchen, dining facilities and equipment, serving at least one (1) meal daily, at least five (5) days a week;

(ii) Such club may not compensate or pay any officer, director, agent or employee any profits from the sale of alcoholic or malt beverages based upon the volume of such beverages sold;

(iii) It is the express intention of the general assembly that the law concerning the purchase or possession of alcoholic beverages by persons under twenty-one (21) years of age be strictly enforced by such club;

(J) "Club" also means a for-profit recreational club, organized and existing under the laws of this state, which is located in any county having

a population of not less than one hundred thirty thousand (130,000) nor more than one hundred thirty-one thousand (131,000), according to the 2000 federal census or any subsequent federal census, and further possesses the following characteristics:

(i) The club shall be adjacent to a residential development consisting of at least one hundred (100) residential units, and the club property and such residential development shall consist of at least two hundred (200) acres;

(ii) The residential development shall be adjacent to a lake with an area greater than twenty (20) acres;

(iii) The club shall be organized and operated to provide to its members, their guests, and others an eighteen-hole golf course and amenities provided by other similar clubs;

(iv) The club shall serve at least one (1) meal daily, five (5) days a week;

(v) The club shall have a clubhouse with not less than three thousand square feet (3,000 sq. ft.) with suitable kitchen, dining facilities and equipment; and

(vi) The club shall not discriminate against any person on the basis of gender, race, religion or national origin;

(K)(i) "Club" also means a for-profit recreational club organized and existing under the laws of this state that has been in existence and operating for at least two (2) years prior to March 31, 2003, and that is located in any county not having a metropolitan form of government and having a population of not less than five hundred thousand (500,000), according to the 2000 federal census or any subsequent federal census, and further possesses the following characteristics:

(a) Has at least two hundred twenty-five (225) members paying monthly or annual dues, or both, and does not discriminate against members or potential members or bona fide guests of the members on the basis of gender, race, religion or national origin;

(b) Is organized and operated exclusively for recreation and provides a regulation eighteen-hole golf course for the use of its members and guests, and may or may not also provide for the use of its members and guests a swimming pool and tennis facility; and

(c) Has a clubhouse with not less than ten thousand square feet (10,000 sq. ft.) with suitable kitchen, dining facilities and equipment, serving at least one (1) meal daily, at least five (5) days a week;

(d) The club may not compensate or pay any officer, director, agent or employee any profits from the sale of alcoholic or malt beverages based on the volume of those beverages sold;

(ii) It is the express intention of the general assembly that the law concerning the purchase or possession of alcoholic beverages by persons under twenty-one (21) years of age be strictly enforced by the club;

(L)(i) "Club" also means a for-profit recreational club, organized and existing under the laws of this state, which is located in a county having a population of not less than four hundred thirty-two thousand two hundred (432,200) nor more than four hundred thirty-two thousand three hundred (432,300), as of the 2010 federal census or any subsequent federal census, and further possesses the following characteristics:

(a) Has at least three hundred (300) members, as of December 23, 2015, paying dues with a copy of membership applications on file on the premises and which issues to its members a membership card which authorizes admittance of the member and bona fide guests of such member;

(b) Is organized and operated exclusively for recreation and provides a regulation eighteen-hole golf course for the use of its members and guests, and also may offer for the use of its members and guests a swimming pool and other recreational amenities;

(c) Has a clubhouse with not less than ten thousand square feet (10,000 sq. ft.) with a suitable kitchen, dining facilities, and equipment, serving at least one (1) meal daily at least five (5) days a week;

(d) The club may not compensate or pay any officer, director, agent, or employee any profits from the sale of alcoholic or malt beverages based on the volume of those beverages sold; and

(e) The premises, as provided in § 57-4-101(a)(2) for a club, whether such parcels comprising the club premises are contiguous or not, shall also include the golf course, including beverage carts; tennis courts; all areas of the clubhouse; the area immediately surrounding the swimming pool, if a club offers such amenities; and all other related recreational facilities; and

(f) Does not discriminate against members or potential members or bona fide guests of such members on the basis of gender, race, religion, or national origin;

(ii) It is the express intention of the general assembly that the law concerning the purchase or possession of alcoholic beverages by persons under twenty-one (21) years of age be strictly enforced by the club;

(M)(i) "Club" also means a for-profit recreational club, organized and existing under the laws of this state, which is located in a county having a population of not less than one hundred twenty-two thousand nine hundred (122,900) nor more than one hundred twenty-three thousand (123,000), according to the 2010 federal census or any subsequent federal census, and further possesses the following characteristics:

(a) Has at least three hundred (300) members, as of January 1, 2017, paying dues with a copy of membership applications on file on the premises and that issues to its members a membership card which authorizes admittance of the member and bona fide guests of such member;

(b) Is located within a planned residential development consisting of no less than six hundred (600) acres and at least three hundred (300) residential dwelling units, and such residential development contains an eighteen-hole golf course;

(c) Is organized and operated exclusively for recreation and provides a regulation eighteen-hole golf course for the use of its members and guests, and also may offer its members and guests the use of a swimming pool, tennis courts, and other recreational amenities;

(d) Has a clubhouse with not less than nine thousand square feet (9,000 sq. ft.) with a suitable kitchen, dining facilities, and equipment, serving at least one (1) meal daily at least five (5) days a week;

(e) The club does not compensate or pay any officer, director, agent, or employee from any profits from the sale of alcoholic or malt

beverages based on the volume of those beverages sold;

(f) The premises, as provided in § 57-4-101(a)(2), for a club, whether such parcel comprising the club premises are contiguous or not, shall also include the golf course; tennis courts; all areas of the clubhouse; the area immediately surrounding the swimming pool, if a club offers such amenities; and all other related recreational facilities; and

(g) Does not discriminate against members or potential members or bona fide guests of such members on the basis of gender, race, color, age, religion, or national origin; and

(ii) It is the express intention of the general assembly that the law concerning the purchase or possession of alcoholic beverages by persons under twenty-one (21) years of age be strictly enforced by the club;

(9) "Commercial airline" includes any airline operating in interstate commerce under a certificate of public convenience and necessity issued by the appropriate federal or state agency, or under an exemption from the requirement of obtaining a certificate of public convenience and necessity but otherwise regulated by an appropriate federal or state agency, with adequate facilities and equipment for serving passengers, on regular schedules, or charter trips, while moving through any county of the state, but not while any such commercial airline is stopped in a county or municipality that has not legalized such sales;

(10) "Commercial airline travel club" means an organization established and operated by or for a commercial airline as defined in this section for the convenience and comfort of airline passengers;

(11) "Commercial passenger boat company" means a company that operates one (1) or more passenger vessels for hire upon navigable waterways and is licensed by the United States Coast Guard to carry not less than fifty (50) passengers on a single vessel. Such company shall operate out of any county that has a population in excess of two hundred eighty-five thousand (285,000) or not less than eighty-three thousand three hundred (83,300) nor more than eighty-three thousand four hundred (83,400), according to the 1980 federal census or any subsequent federal census. No commercial passenger boat company licensed pursuant to this chapter shall sell any type of alcoholic beverage or beer while such boat is docked within the boundaries of any local government which has not approved the sale of alcoholic beverages pursuant to § 57-4-103;

(12) "Commission" means the alcoholic beverage commission, created pursuant to chapter 1 of this title;

(13)(A) "Community theater" means a facility or theater possessing each of the following characteristics:

(i) The community theater is at least eight (8) years old;

(ii) The theater is operated by a not-for-profit corporation which is exempt from taxation under § 501(c) of the Internal Revenue Code of 1954 (26 U.S.C. § 501(c)), as amended, where no member or officer, agent or employee of any community theater shall be paid, or directly or indirectly receive, in the form of salary or other compensation any profits from the sale of alcoholic beverages beyond the amount of such salary as may be fixed by its governing body for the reasonable performance of their assigned duties. All profits from the sale of alcoholic beverages by a not-for-profit corporation shall be used for the

operation and maintenance of the community theater, and in furtherance of the purposes of the organization. All profits from the sale of alcoholic beverages by a not-for-profit corporation shall be used for the operation, renovation, refurbishing, and maintenance of the theater. No alcoholic beverages or beverages of any kind shall be possessed or consumed inside the auditorium of such theater during performances in such auditorium;

(iii) The theater provides or leases facilities for theatrical programs of cultural, civic and educational interest; and

(iv) The theater is located in any county having a population of not less than seven hundred thousand (700,000), according to the 1980 federal census or any subsequent federal census;

(B) "Community theater" also includes a facility or theater possessing each of the following characteristics:

(i) The facility has a performance hall seating not less than two hundred fifty (250) persons, a resource library, rehearsal rooms, and permanent exhibition space of not less than nine thousand square feet (9,000 sq. ft.);

(ii) The facility is operated by a not-for-profit corporation which is exempt from taxation under § 501(c) of the Internal Revenue Code of 1954 (26 U.S.C. § 501(c)), as amended, where no member or officer, agent or employee of any community theater shall be paid, or directly or indirectly receive, in the form of salary or other compensation any profits from the sale of alcoholic beverages beyond the amount of such salary as may be fixed by its governing body for the reasonable performance of their assigned duties. All profits from the sale of alcoholic beverages by a not-for-profit corporation shall be used for the operation and maintenance of the facility, and in furtherance of the purposes of the organization;

(iii) The facility provides or leases facilities for concerts and programs of cultural, civic and educational interest; and

(iv) The facility is located in any county having a population of not less than two hundred eighty-five thousand (285,000) nor more than two hundred eighty-six thousand (286,000), according to the 1990 federal census or any subsequent federal census;

(C) Alcoholic beverages may be sold at a community theater only during one (1) performance or benefit program a day and only one (1) hour before, during and one (1) hour after the performance or benefit program;

(D) "Community theater" also includes a facility or theater possessing each of the following characteristics:

(i) The facility is located in a building that is at least eighty (80) years old;

(ii) The facility has a performance hall seating approximately two hundred fifty (250) persons;

(iii) The facility is operated by a not-for-profit corporation that is exempt from taxation under § 501(c) of the Internal Revenue Code of 1954 (26 U.S.C. § 501(c)), and no member or officer, agent or employee of any community theater is paid, or directly or indirectly receives, in the form of salary or other compensation, any profits from the sale of alcoholic beverages beyond the amount of the salary as may be fixed by its governing body for the reasonable performance of the person's

assigned duties. All profits from the sale of alcoholic beverages by a not-for-profit corporation shall be used for the operation, renovation, refurbishing and maintenance of the facility, and in furtherance of the purposes of the organization;

(iv) Alcoholic beverages shall only be sold before or after performances or during intermissions in the performances, and no alcoholic beverages shall be consumed inside the auditorium of the facility; and

(v) The facility is located within a municipality that has authorized the sale of alcoholic beverages for consumption on the premises, in a referendum in the manner prescribed by § 57-3-106, in any county having a population of not less than thirty-three thousand five hundred twenty-five (33,525) nor more than thirty-three thousand six hundred (33,600), according to the 2000 federal census or any subsequent federal census;

(E) "Community theater" also includes a privately owned facility possessing each of the following characteristics:

(i) Is a community theater in continuous operation since 1943;

(ii) Is primarily a volunteer organization with limited salaried staff;

(iii) Has an auditorium with more than three hundred (300) seats;

(iv) Is located on an historic square and is allowed to sell alcoholic beverages at up to five (5) special events annually that are held on the historic square along with being allowed to sell alcoholic beverages as provided in subdivision (13)(C); and

(v) Is located in any county having a population of not less than seventy-one thousand three hundred (71,300) nor more than seventy-one thousand four hundred (71,400), according to the 2000 federal census or any subsequent federal census;

(F) "Community theater" also includes a facility or theater possessing each of the following characteristics:

(i) The facility is at least twenty-seven (27) years old;

(ii) The facility has a performance hall seating not less than one hundred fifty (150) persons and not more than five hundred (500) persons;

(iii) The facility is operated by a not-for-profit corporation which is exempt from taxation under § 501(c) of the Internal Revenue Code of 1954 (26 U.S.C. § 501(c)), as amended, where no member or officer, agent or employee of any community theater is paid, or directly or indirectly receives, in the form of salary or other compensation, any profits from the sale of alcoholic beverages beyond the amount of the salary as may be fixed by its governing body for the reasonable performance of the person's assigned duties. All profits from the sale of alcoholic beverages by a not-for-profit corporation shall be used for the operation, renovation, refurbishing and maintenance of the facility, and in furtherance of the purposes of the organization; and

(iv) The facility is located in any county having a population of not less than one hundred thirty-four thousand seven hundred (134,700) nor more than one hundred thirty-four thousand eight hundred (134,800), according to the 2000 federal census or any subsequent federal census;

(G) "Community theater" also includes a municipally owned facility possessing each of the following characteristics:

(i) Is a community theater in continuous operation since 1980;

(ii) Has an auditorium with more than three hundred (300) seats;

(iii) Provides or leases facilities for concerts, plays and programs of cultural, civic and education interest; and

(iv) The facility is located in any municipality that has authorized the sale of alcoholic beverages for consumption on the premises, in a referendum in the manner prescribed by § 57-3-106, and the municipality has a population of not less than twenty-three thousand nine hundred twenty (23,920), nor more than twenty-three thousand nine hundred thirty (23,930), according to the 2000 federal census or any subsequent federal census;

(H) "Community theater" also means a theater possessing each of the following characteristics:

(i) The theater was founded in 1923;

(ii) The theater has a main performance hall with not less than three hundred eighty (380) seats;

(iii) The theater has an auxiliary performance hall with not less than two hundred (200) seats;

(iv) The facility is operated by a not-for-profit corporation that is exempt from taxation under § 501(c) of the Internal Revenue Code of 1954 (26 U.S.C. § 501(c)), as amended, where no member, officer, agent, or employee of the theater is paid, or directly or indirectly receives, in the form of salary or other compensation, any profits from the sale of alcoholic beverages beyond the amount of the salary as may be fixed by its governing body for the reasonable performance of the person's assigned duties. All profits from the sale of alcoholic beverages by the not-for-profit corporation must be used for the operation, renovation, refurbishing, and maintenance of the theater, and in furtherance of the purposes of the organization. Alcoholic beverages may be sold before, during, and after performances, and may be consumed inside any auditorium or performance hall within the theater; and

(v) The theater is located within one thousand feet (1,000′) of the Tennessee River in a city with a population of one hundred sixty-seven thousand six hundred seventy-four (167,674), according to the 2010 federal census or any subsequent federal census;

(14)(A) "Convention center" means a facility possessing each of the following characteristics:

(i) Owned by the state, municipal and/or county government, or a nonprofit, tax exempt, charitable organization that operates a symphony orchestra, and leased or operated by that government or by a nonprofit charitable corporation established to operate such facility;

(ii) Designed and used for the purposes of holding meetings, conventions, trade shows, classes, dances, banquets and various artistic, musical or other cultural events;

(a) A convention center does not include a building located within one thousand (1,000) yards of both a student museum and a zoological park; provided, that any restaurant, located within a former world's fair site or a zoological park and which meets the requirements of subdivision (30), shall be eligible for licensure under this chapter as long as the requirements of this chapter are otherwise met;

(b) A convention center also does not include a building which is more than twenty (20) years old and is located in any county having

a population of not less than two hundred eighty-seven thousand seven hundred (287,700) nor more than two hundred eighty-seven thousand eight hundred (287,800), according to the 1980 federal census or any subsequent federal census;

(iii)*(a)* Except as provided for in (14)(A)(iii)(*b*), which state-owned facility, operated by a nonprofit charitable corporation established to operate such facility, has a designated, restricted area outside the seating area of any theater within which area the consumption of such alcoholic beverages shall be permitted. The sale of such alcoholic beverages in such facility is limited to no more than one (1) hour and fifteen (15) minutes prior to a meeting, show, performance, reception, or other similar event, and to no later than thirty (30) minutes after such event; and

(b) In a county having a metropolitan form of government and a population in excess of five hundred thousand (500,000), according to the 1990 federal census or any subsequent federal census, which state-owned facility, operated by a nonprofit charitable corporation established to operate such facility, or facility owned by a nonprofit, tax exempt, charitable organization that operates a symphony orchestra, has designated an area within or adjacent to any theatre or meeting space, or adjacent to the facility within which area the consumption of alcoholic beverages shall be permitted. Nothing herein shall restrict the ability of a convention center, as defined herein, from adjusting the designated area within or adjacent to its theatre areas, upon adequate prior notice to the commission;

(iv) Located in a municipality having a population in excess of one hundred fifty thousand (150,000) and in a county having a population in excess of two hundred thousand (200,000), or both, according to the 1980 federal census or any subsequent federal census;

(v) A convention center licensed under this subdivision (14)(A) shall have the privilege of granting a franchise for the provision of food or beverage, including alcoholic beverages, on its premises, and the holder of the franchise shall also be considered a convention center under this subdivision (14)(A);

(B) "Convention center" also means a facility meeting the criteria of subdivision (14)(A)(i) and (ii) and located in a premiere resort city as defined by § 67-6-103(a)(3)(B)(i);

(C) "Convention center" also means a facility possessing each of the following characteristics:

(i) Owned by a county public building authority at the time of development;

(ii) Designed and used for the purposes of attracting conventions, business travelers, tourists and other visitors to promote economic development;

(iii) Located at the intersection of Interstate 24 and Highway 41 near mile marker 114;

(iv) Occupies an area of not less than approximately thirteen thousand five hundred square feet (13,500 sq. ft.); and

(v) Includes a full commercial kitchen to provide meals and catering services;

(D) "Convention center" also means a facility possessing each of the

following characteristics:

(i) Is owned by a quasi-governmental development agency;

(ii) Is designed and used for the purposes of attracting conventions, business travelers and tourists to the area and is vital in promoting economic development, fostering community activities, providing training and seminar space for business and industries and in encouraging tourism;

(iii) Is available for community, industry and private events;

(iv) Is the only one of its kind in the area;

(v) Has a seating capacity of approximately three hundred (300) and is fully equipped with tables, chairs, linens, dishware and a catering kitchen;

(vi) Occupies an area of approximately eight thousand five hundred square feet (8,500 sq. ft.) on acreage surrounding Tellico Lake; and

(vii) Is located in a county having a population of not less than forty-four thousand five hundred (44,500) nor more than forty-four thousand six hundred (44,600), according to the 2010 federal census or any subsequent federal census; and

(E) No member or officer, agent or employee of any convention center as defined by this section shall be paid, or directly or indirectly receive, in the form of salary or other compensation any profits from the sale of spirituous liquors, wines, champagnes, malt beverages or any other alcoholic beverage beyond the amount of such salary as may be fixed by its governing body out of the general revenue of the center. All profits from the sale of such alcoholic beverages shall be used for the operation and maintenance of the convention center;

(15) "Country club located on an historic property" means a country club that is located in a county having a population of not less than forty-four thousand five hundred (44,500) nor more than forty-five thousand (45,000), according to the 1990 federal census or any subsequent federal census, and has the following characteristics:

(A) Sits on real property that was formerly the home of the International Printing Pressmen Union;

(B) Has a dining facility; and

(C) Is located adjacent to an eighteen-hole golf course;

(16)(A) "Festival operator" means a person licensed under this subdivision (16) who is either a for-profit business operating a festival for a period of up to seven (7) days in length in which alcoholic beverages or beer will be sold, given away, or otherwise dispensed or a third party with whom such for-profit business engages to conduct alcoholic beverage or beer sales during such festival;

(B) The commission shall issue a license to a festival operator upon the payment of a fee of one thousand dollars ($1,000) per day of the festival, and the submission of an application on a form prescribed by the commission that provides proof satisfactory of the following information, to the satisfaction of the commission:

(i) The premises on which alcoholic beverages or beer will be served, sold, dispensed, or consumed is sufficiently designated, enclosed, secured, and maintained;

(ii) Adequate security for the festival is provided;

(iii) The number and location of each point of sale in which alcoholic beverages or beer will be served, sold, dispensed, or consumed is

specified. If the operator of any such point of sale, including any person or entity that receives any portion of the proceeds of the sale of alcoholic beverages or beer from that point of sale, is different from the festival operator, the name and relevant information of such other operator must be specified on the application to the commission, and the commission may determine that such other operator is required to obtain an additional festival operator license;

(iv) The staff selling, serving, or dispensing alcoholic beverages or beer are adequately trained and supervised in the service of alcoholic beverages and beer and on the applicable laws regarding such service;

(v) The city or county in which, or the state governmental entity responsible for the property on which, the festival is to be held has approved the festival; and

(vi) If the applicant intends to sell, serve, or dispense beer, the applicant has a beer permit issued in accordance with chapter 5 of this title;

(C) No person licensed under this title, operating in conjunction with a festival operator licensee, or performing any activities for which a license is otherwise required under this title, other than a festival operator or special occasion licensee licensed under this section, may provide any service, item, or other thing of value to a festival operator or with respect to a festival operator's festival, except as may be expressly authorized by the commission. Additionally, no festival operator may receive or accept any item or service that a person under this subdivision (16) is prohibited from providing. All alcoholic beverages used for the festival must be purchased from wholesalers licensed under § 57-3-203. Notwithstanding any law to the contrary, a wholesaler may buy back any unopened and resalable bottles of alcoholic beverages at the end of the festival. A wholesaler shall keep all records, as may be required by the commission, necessary to document the purchase of such products pursuant to this subdivision (16);

(D) All applicable taxes, including the tax levied on the sale of alcoholic beverages for consumption on the premises under § 57-4-301, must be remitted as required by law;

(E) Alcoholic beverages and beer may be sold, given away, dispensed, or consumed only within hours sufficient to ensure adequate public health, safety, and welfare as determined by the commission or local beer board, as applicable;

(F) Notwithstanding any law to the contrary, if the commission finds that any of the requirements of this subdivision (16) have not been, or are not being, met by a festival operator during a festival or after the completion of a festival, or that the festival operator misrepresented information in the person's application, the commission may use the failure or misrepresentation as the basis to summarily suspend the license of the festival operator, to deny any future applications for a festival operator license for a period of up to two (2) years after the festival in which the failure or misrepresentation occurred, or to issue a fine of up to ten thousand dollars ($10,000) per violation, which disciplinary action must be resolved prior to the issuance of any new festival operator license to the festival operator;

(17)(A) "Historic inn" means a historic building that is located in a county having a population of not less than forty-four thousand five hundred (44,500) nor more than forty-five thousand (45,000), according to the 1990 federal census or any subsequent federal census, and has the following characteristics:

(i) Was built in 1824 and was formerly the oldest continuously operating inn in Tennessee;

(ii) Was once visited by United States Presidents Andrew Jackson, Andrew Johnson and James K. Polk, all of whom stayed and dined there; and

(iii) Has a dining facility and a total of nine (9) rooms and suites;

(B) "Historic inn" also means a country inn that is located in any county having a population of not less than seventy-one thousand one hundred (71,100) nor more than seventy-one thousand two hundred (71,200), according to the 2000 federal census or any subsequent federal census, and has the following characteristics:

(i) Has been in operation since 1938;

(ii) Is located within one-half (½) mile of the Great Smoky Mountains National Park;

(iii) Has a total of twenty-four (24) guest rooms and a dining facility offering fine dining to guests and other patrons with a seating capacity of no more than sixty (60); and

(iv) Does not discriminate against any patron on the basis of age, gender, race, religion or national origin; and

(C) "Historic inn" also means an inn that has all of the following characteristics:

(i) Contains at least ten (10) transient guest rooms in the main house;

(ii) Has a separate meeting lodge and facility that also houses at least four (4) transient suites;

(iii) Has at least two (2) kitchens on the premises and offers at least two (2) meals daily;

(iv) Has an open-air, outdoor, sylvan chapel suitable for the accommodation of wedding ceremonies;

(v) Provides entertainment in the form of cooking demonstrations, storytelling and dulcimer playing;

(vi) Is listed in Distinguished Inns of North America, 16th Edition, by Select Registry;

(vii) Is located in any county having a population of not less than one hundred five thousand eight hundred (105,800) nor more than one hundred five thousand nine hundred (105,900), according to the 2000 federal census or any subsequent federal census; and

(viii) Does not discriminate against any patron on the basis of age, gender, race, religion or national origin;

(18)(A) "Historic interpretive center" means a facility possessing each of the following characteristics:

(i) The center is located in an historic area of town where structures listed on the national register of historic places are located;

(ii) The center operates as a not-for-profit corporation that is exempt from taxation under § 501(c) of the Internal Revenue Code of 1954 (26 U.S.C. § 501(c)), as amended, where no member or officer, agent or employee of any historic interpretive center shall be paid, or directly or

indirectly receive, in the form of salary or other compensation any profits from the sale of alcoholic beverages beyond the amount of such salary as may be fixed by its governing body for the reasonable performance of the assigned duties. All profits from the sale of alcoholic beverages by a not-for-profit corporation shall be used for the operation and maintenance of the historic interpretive center, and in furtherance of the purposes of the organization. Alcoholic beverages may be consumed inside the center at locations designated by the board of the not-for-profit corporation;

(iii) The center provides facilities for programs of cultural, civic, and educational interest, including, but not limited to, musical concerts, films, receptions, exhibitions, seminars or meetings; and

(iv) The center is located in any county having a population of not less than seven hundred thousand (700,000), according to the 1980 federal census or any subsequent federal census;

(B) "Historic interpretive center" also means a commercially operated facility owned by a not-for-profit organization possessing each of the following characteristics:

(i) Is located on the Cumberland Plateau, within one (1) mile of a national river and recreation area;

(ii) Offers historic interpretation of Victorian-era British architecture, lifestyle, and settlement on the Cumberland Plateau in the 1880s and thereafter;

(iii) Operates public education programs in multiple historic buildings built from 1880 to 1884, including the oldest unchanged and preserved public library in America;

(iv) Preserves the historic character of a British settlement on the Cumberland Plateau in the 1880s through a board of directors engaged in land acquisition and management, design review of new construction and renovation, and the public enjoyment of period crafts, music, and folklife through the organization of festivals, support for local artists through the sale of arts and crafts in a commissary;

(v) Owns, sells, and develops home sites for construction of design-approved homes;

(vi) Offers overnight accommodations to visitors in historic inn and cottage settings;

(vii) Operates a restaurant serving breakfast, lunch, and dinner to visitors, community residents, guests, and members of the public;

(viii) Attracts thousands of visitors annually from around the world;

(ix) Does not discriminate against any patron on the basis of age, gender, race, religion, or national origin; and

(x) Is located within any county having a population of not less than nineteen thousand five hundred (19,500) nor more than nineteen thousand seven hundred seventy five (19,775), according to the 2000 federal census or any subsequent federal census;

(C) "Historic interpretive center" also means a facility possessing each of the following characteristics:

(i) Was founded in 1983;

(ii) Is located on Martin Luther King Boulevard;

(iii) Provides programs of historical, cultural, civic, and educational interest, including, but not limited to, art exhibitions and musical

concerts;

(iv) Is owned by a municipal or county government;

(v) Alcoholic beverages shall only be sold at the center before or during performances; and

(vi) Is located in any county having a population of not less than three hundred thirty-six thousand four hundred (336,400) nor more than three hundred thirty-six thousand five hundred (336,500), according to the 2010 federal census or any subsequent federal census;

(19) "Historic mansion house site" means the buildings and grounds of a historic mansion house, located in any county having a metropolitan form of government, included in the Tennessee register of historic places, and operated by the Association for the Preservation of Tennessee Antiquities, and including Association for the Preservation of Tennessee Antiquities sites owned by this state. "Historic mansion house site" also means the buildings and grounds of an historic mansion house located in any county having a metropolitan form of government which has been conveyed by this state in trust to a board of trustees created and appointed in accordance with §§ 4-13-103 and 4-13-104, and for admission to which reasonable fees are charged as provided in § 4-13-105. This subdivision (19) shall apply only to counties having a population of four hundred fifty thousand (450,000) or greater, according to the 1980 federal census or any subsequent census;

(20)(A) "Historic performing arts center" means a facility possessing each of the following characteristics:

(i) The center is located in a restored theater that is at least fifty (50) years old and listed on the national register of historic places;

(ii) The center is operated by a for-profit corporation, or not-for-profit corporation which is exempt from taxation under Section 501(c) of the Internal Revenue Code of 1954(26 U.S.C. § 501(c)), as amended, where no member or officer, agent or employee of any historic performing arts center shall be paid, or directly or indirectly receive, in the form of salary or other compensation any profits from the sale of alcoholic beverages beyond the amount of such salary as may be fixed by its governing body for the reasonable performance of their assigned duties. All profits from the sale of alcoholic beverages by a not-for-profit corporation shall be used for the operation and maintenance of the historic performing arts center, and in furtherance of the purposes of the organization. All profits from the sale of alcoholic beverages by a for-profit corporation shall be used for the operation, renovation, refurbishing, and maintenance of the center;

(iii) The center provides facilities for programs of cultural, civic, and educational interest, including, but not limited to, stage plays, musical concerts, films, dance performances, receptions, exhibitions, seminars or meetings; and

(iv) The center is located in any county having a population of:

not less than	nor more than
143,900	144,000
300,000	400,000
700,000	

according to the 1980 federal census or any subsequent federal census;

(B) "Historic performing arts center" also means a facility possessing each of the following characteristics:

(i) The center is located in a restored theater or music hall that is at least fifty (50) years old and listed on the national register of historic places;

(ii) The center is operated by a for-profit organization, or a not-for-profit organization that is exempt from taxation under § 501(c) of the Internal Revenue Code of 1954 (26 U.S.C. § 501(c)), as amended, and where no member, officer, agent or employee of the not-for-profit organization receives any incentive compensation relating directly to the sale of alcoholic beverages beyond the amount of such salary and other compensation as may be fixed by the not-for-profit organization's governing body for the reasonable performance of such member's, officer's, agent's or employee's assigned duties. A portion of the profits from the sale of alcoholic beverages at the center shall be used for the operation, renovation, refurbishing or general maintenance of the center. Alcoholic beverages shall only be sold at the center before, during or after performances. Alcoholic beverages may be consumed inside the center at locations designated by its governing body;

(iii) The center provides facilities for programs of cultural, civic, and educational interest, including, but not limited to, stage plays, musical concerts, films, dance performances, receptions, exhibitions, seminars or meetings; and

(iv) The center is located in any county having a population in excess of five hundred thousand (500,000), which has a metropolitan form of government;

(C) "Historic performing arts center" also means a facility possessing each of the following characteristics:

(i) Was opened in 1921;

(ii) Is on the national register of historic places;

(iii) Is located on Broad Street;

(iv) Provides programs of cultural, civic, and educational interest, including, but not limited to, operas and musical concerts;

(v) Is owned by a municipal or county government, or nonprofit, tax exempt, charitable organization. Alcoholic beverages shall only be sold at the center before, during or after performances; and

(vi) Is located in any county having a population of not less than three hundred seven thousand eight hundred (307,800) nor more than three hundred seven thousand nine hundred (307,900), according to the 2000 federal census or any subsequent federal census;

(D) "Historic performing arts center" also means a facility possessing each of the following characteristics:

(i) Was opened in 1924;

(ii) Was originally designed as a municipal auditorium and all-purpose exhibition hall;

(iii) Is located on McCallie Avenue;

(iv) Is owned by a municipal or county government, or nonprofit, tax exempt, charitable organization. Alcoholic beverages shall only be sold at the center before, during or after performances;

(v) Provides programs of cultural, civic, and educational interest, including, but not limited to, stage plays and musical concerts; and

(vi) Is located in any county having a population of not less than three hundred seven thousand eight hundred (307,800) nor more than three hundred seven thousand nine hundred (307,900), according to the 2000 federal census or any subsequent federal census;

(E) "Historic performing arts center" also means a facility possessing each of the following characteristics:

(i) Is on the national register of historic places;

(ii) Was built in 1937;

(iii) Is located on Main Street;

(iv) Is an entertainment venue for live performances, movies and other events. Alcoholic beverages shall only be sold at the center before, during or after the performances, movies or other events; and

(v) Is located in any county having a population of not less than one hundred twenty-six thousand six hundred (126,600) nor more than one hundred twenty-six thousand seven hundred (126,700), according to the 2000 federal census or any subsequent federal census;

(F) "Historic performing arts center" also means a facility possessing each of the following characteristics:

(i) Was built in 1931;

(ii) Is on the national register of historic places;

(iii) Is maintained by a not-for-profit corporation which is exempt from taxation under § 501(c) (26 U.S.C. § 501(c)), of the Internal Revenue Code of 1954 as amended;

(iv) Has an auditorium that seats more than seven hundred fifty (750) people;

(v) Provides programs of cultural, civic, and educational interest, including, but not limited to, stage plays and musical concerts; and

(vi) Is located in any county having a population of not less than one hundred fifty-three thousand (153,000) nor more than one hundred fifty-three thousand one hundred (153,100), according to the 2000 federal census or any subsequent federal census;

(G) "Historic performing arts center" also means a facility possessing each of the following characteristics:

(i) The center:

(a) Is located adjacent to a restored theater that is at least fifty (50) years old and listed on the national register of historic places; and

(b) Shares a plaza with such restored theater;

(ii) The center is operated by a for-profit corporation, or not-for-profit corporation which is exempt from taxation under § 501(c) of the Internal Revenue Code of 1954 (26 U.S.C. § 501(c)), as amended, where no member or officer, agent or employee of any historic performing arts center shall be paid, or directly or indirectly receive, in the form of salary or other compensation any profits from the sale of alcoholic beverages beyond the amount of such salary as may be fixed by its governing body for the reasonable performance of their assigned duties. All profits from the sale of alcoholic beverages by a not-for-profit corporation shall be used for the operation and maintenance of the historic performing arts center, and in furtherance of the purposes of the organization. All profits from the sale of alcoholic beverages by a for-profit corporation shall be used for the operation, renovation, refurbishing, and maintenance of the center. Alcoholic beverages may be sold

before, during, and after events or during intermissions in such events;

(iii) The center provides facilities for programs of cultural, civic, and educational interest to further the mission of the for-profit or not-for-profit corporation, including, but not limited to, stage plays, musical concerts, films, dance performances, receptions, exhibitions, seminars, or meetings; and

(iv) The center is located in a county having a population of more than nine hundred thousand (900,000), according to the 2010 federal census or any subsequent federal census;

(21)(A) "Hotel" (Motel) means every building or other structure kept, used, maintained, advertised and held out to the public to be a place where food is actually served and consumed and sleeping accommodations are offered for adequate pay to travelers and guests, whether transient, permanent, or residential, in which twenty (20) or more rooms are used for the sleeping accommodations of such guests and having one (1) or more public dining rooms, with adequate and sanitary kitchen and a seating capacity of at least fifty (50) at tables, where meals are regularly served to such guests, such sleeping accommodations and dining rooms being conducted in the same building or in separate buildings or structures used in connection therewith that are on the same premises and are a part of the hotel operation. Motels meeting the qualifications set out herein for hotels shall be classified in the same category as hotels. Hotels shall have the privilege of granting franchises for the operation of a restaurant on their premises and the holder of such franchise shall be included in the definition of "hotel" hereunder; and property contiguous to a hotel, except property located in any county having a population of not less than seventy-seven thousand seven hundred fifty (77,750) nor more than seventy-seven thousand seven hundred ninety (77,790), according to the 1980 federal census or any subsequent federal census, which is owned by the same entity as the hotel and operated by the same entity as the hotel, which property either serves travelers and guests other than as a separate commercial establishment or is operated as a major entertainment complex serving in excess of one million (1,000,000) persons per year;

(B) "Hotel" also means and includes all entities previously described wherein sleeping accommodations are offered for adequate pay to travelers and guests, whether transient, permanent or residential, in which thirty (30) or more suites are used for sleeping accommodations of such guests and having eating facilities in each room for four (4) or more persons with an adequate and sanitary central kitchen from which meals are regularly prepared and served to guests in such suites. For the purpose of this section, "suite" is defined as a guest facility within a hotel where living, sleeping and dining are regularly provided for such guests within the individual units provided for guests. No such hotel or suite as defined in this subdivision (21)(B) shall be authorized to charge for, inhibit or otherwise interfere in any way with the rights of its guests or tenants to carry into rooms or suites rented by them their own bottles, packages or other containers of alcoholic beverages and/or to use or serve them to themselves, their own visitors or guests within the individual units rented or leased by them;

(C) "Hotel" also includes facilities owned and operated by an individual or event-management organization which plans and coordinates all

phases of any function for retreats by groups of persons having similar backgrounds or purposes, and which offers meeting and banquet facilities, dining services, recreation and leisure activities in facilities which include a dining inn with seating capacity of three hundred (300), and a complex which includes meeting and banquet facilities with a seating capacity of two hundred (200), overnight accommodations for at least forty (40), and a fifty (50) acre tract of land with picnic accommodations for at least four thousand (4,000), and a facility with seating capacity of four hundred (400). The scope of any license authorized by this subdivision (21)(C) includes picnic service on the grounds of the complex owned and operated by the licensee;

(D) "Hotel" also includes a residence hotel located in the central business district of any municipality having a population of more than three hundred thousand (300,000), according to the 1990 federal census or any subsequent federal census and having a common smoking room and lobby area;

(E)(i) "Hotel" also includes a bed and breakfast establishment as defined in § 68-14-502, where meals are regularly served to guests and where sleeping accommodations and dining facilities being conducted in the same buildings or structures used in connection therewith are on the same premises and are part of the hotel operation. The premises upon which such establishment is located shall be within the boundaries of a clearly defined arts district which is owned and operated by the same entity and having a common courtyard which is contiguous to all buildings and structures on the premises. The dining facilities, including beverages, may be served from an adequate and sanitary central kitchen and storage facility;

(ii) This subdivision (21)(E) applies in any municipality having a population in excess of one hundred fifty thousand (150,000), according to the 1990 federal census or any subsequent federal census;

(F)(i) "Hotel" also includes a bed and breakfast establishment as defined in § 68-14-502, where meals are regularly served to guests and where sleeping accommodations and dining facilities being conducted in the same buildings or structures used in connection therewith are on the same premises and are part of the hotel operation. In such establishment there must be two (2) rooms for sleeping accommodations and a seating capacity of twenty-five (25) people at tables. The premises upon which such establishment is located shall have a business conference center;

(ii) Subdivision (21)(F)(i) applies in any county having a population of not less than eight hundred thousand (800,000), according to the 1990 federal census or any subsequent federal census;

(iii) "Hotel" also includes a facility located in a county which contains a population of not less than eighty-five thousand nine hundred (85,900) nor more than eighty-six thousand one hundred sixty (86,160), according to the 1990 federal census or any subsequent census, which facility contains the following characteristics:

(a) Contains at least forty (40) rooms for guest sleeping accommodations offered for adequate pay to travelers and guests;

(b) Contains at least three (3) separate dining rooms with adequate sanitary kitchen facilities, either common or separate, where meals

are regularly served to guests;

(c) Is located on real property of at least one thousand fifty (1,050) acres, notwithstanding that such real property is not contiguous and may be divided by a public or private road;

(d) Contains a swimming pool, hiking trails, and biking trails for use by registered guests;

(e) Has access to the Double Branch Creek and tributaries, notwithstanding that such creek and tributaries are not contiguous and may be divided by a public or private road;

(f) Has at least two thousand seven hundred sixteen (2,716) acres of land that has been placed in conservation easement;

(g) Provides a full service spa for use by registered guests of the facility;

(h) Any such hotel whose facilities are located on the premises of an area meeting the definition of a hotel under this subdivision (21)(F)(iii) may exercise the privileges authorized under this chapter anywhere within that area, and, in addition, may exercise the privilege authorized under this chapter on any location identified to the commission and held out to the public as part of such hotel property irrespective of the actual owner of the location, where the hotel is authorized by written contract or lease to provide hotel or resort services by the owner of such location; and

(i) Notwithstanding this title or any rule to the contrary, a hotel under this subdivision (21)(F)(iii) shall be able to:

(1) Hold a manufacturer's license under § 57-3-202 or a non-manufacturer nonresident seller's permit under § 57-3-602(c) or both, and such license or permit may be for facilities on or off the hotel premises;

(2) Offer tastings, with or without charge, and sell sealed bottles in a tasting room or a gift shop on the hotel premises of product manufactured pursuant to the license or permit in subdivision (21)(F)(iii)(*i*)(*1*), as long as such tastings and sealed bottles are offered only to guests of the hotel, as defined in this section, and private owners of homes on the hotel property and are not offered anywhere except in the tasting room and the gift shops;

(3) Sell beer and alcoholic beverages by the drink for on-premises consumption anywhere on the hotel premises, except for the tasting room and the gift shops; and

(4) Only sell at retail or provide samples of product that it has obtained from a wholesaler licensed under § 57-3-203, and such wholesaler shall remit all taxes imposed under §§ 57-3-302 and 57-3-501, which shall be collected from the hotel based upon its retail sales, and § 57-6-201. For products acquired from a wholesaler by a hotel under this subdivision (21)(F)(iii) that are manufactured by the hotel, the wholesaler may permit the hotel to deliver its products to the location on its premises where such retail sales and samples will be effected, provided the wholesaler permitting such direct shipment must include the amounts delivered in its inventory and depletions for purposes of tax collections;

(j) A hotel under this subdivision (21)(F)(iii) must comply with all the requirements of this chapter and shall be subject to the restric-

tions imposed upon licenses other than § 57-4-103;

(G)(i) "Hotel" also includes a facility that possesses the following characteristics:

(a) Was built in 1917;

(b) Is listed on the National Register of Historic Places;

(c) Has at least twelve (12) rooms for guest sleeping accommodations with at least one (1) room being handicap accessible;

(d) Has a dining area that seats at least one hundred sixty (160) people;

(e) Has a music and entertainment venue that is at least two thousand nine hundred square feet (2,900 sq. ft.);

(f) Has a two-acre meadow suitable for wedding ceremonies and other events; and

(g) Is located in any county having a population of not less than thirty-seven thousand five hundred (37,500) nor more than thirty-seven thousand six hundred (37,600), according to the 2000 federal census or any subsequent federal census.

(ii) A hotel under this subdivision (21)(G) must comply with all the requirements of this chapter and shall be subject to the restrictions imposed upon licenses other than § 57-4-103;

(H)(i) "Hotel" also means a facility that possesses all of the following characteristics:

(a) Offers to the public:

(1) At least thirty (30) rooms for the sleeping accommodations of guests for adequate pay; and

(2) A dining room;

(b) Is owned by and located on the campus of a private institution of higher education located on at least ten thousand (10,000) acres; and

(c) Is located in any county having a population of not less than thirty-nine thousand two hundred (39,200) nor more than thirty-nine thousand three hundred (39,300), according to the 2000 federal census or any subsequent federal census;

(ii) A hotel under this subdivision (21)(H) must comply with all the requirements of this chapter and shall be subject to the restrictions imposed upon licenses other than § 57-4-103;

(I)(i) "Hotel" also includes a facility that possesses the following characteristics:

(a) Is located in a building on which construction began prior to 1940;

(b) Is located approximately twenty-two (22) miles south of Interstate 40 on U.S. Highway 412;

(c) Is fronted on the north side by U.S. Highway 412 and is less than one (1) mile from a scenic river as defined in title 11, chapter 13;

(d) Has at least twelve (12) rooms for guest sleeping accommodations;

(e) Has a separate room for conferences or meetings;

(f) Has at least a forty-seat dining area that has been approved by the local health department and that serves meals at least four (4) days a week, with exceptions of closures for private groups or events, seasonal closures, vacations, and periods of general maintenance or

remodeling by the owners;

(g) Does not discriminate against any patron on the basis of age, gender, race, religion, or national origin; and

(h) Is located in any county having a population of not less than seven thousand nine hundred one (7,901) nor more than eight thousand (8,000), according to the 2010 federal census or any subsequent federal census;

(ii) A hotel under this subdivision (21)(I) must comply with all the requirements of this chapter and shall be subject to the restrictions imposed upon licenses other than § 57-4-103;

(22) "Limited service restaurant" means a facility possessing each of the following characteristics:

(A) Is a public place which has a seating capacity for at least forty (40) patrons and that is kept, used, maintained, advertised and held out to the public as a place where during regular hours of operation:

(i) Alcoholic beverages, beer or wine are served to patrons;

(ii) A menu of prepared food is made available to patrons;

(iii) The gross revenue from the sale of prepared food is fifty percent (50%) or less than the gross revenue from the sale of alcoholic beverages; provided, however, that gross revenue of more than fifty percent (50%) from the sale of prepared food shall not prevent a facility from receiving a "limited service restaurant" license or subject such facility to a fine from the commission for having gross revenue of more than fifty percent (50%) from the sale of prepared food. For purposes of determining the gross revenue from the sale of prepared food, chips, popcorn, pretzels, peanuts and similar snack items shall not be included in gross revenue from the sale of prepared food sold;

(iv) The facility affirmatively establishes, to the satisfaction of the commission, that it has complied and will comply with the requirements of § 57-4-204;

(v) The facility provides adequate security during the regular hours of operation; and

(vi) Sleeping accommodations are not provided;

(B) Is located within the jurisdictional boundaries of a political subdivision which has authorized the sale of alcoholic beverages for consumption on the premises as provided in § 57-4-103; and

(C) Is located in an area which is properly zoned for facilities authorized to sell alcoholic beverages for consumption on the premises;

(23)(A) "Motor speedway" means a motor sports facility that possesses the following characteristics:

(i) Is located in a county having a population of not less than sixty-seven thousand six hundred (67,600) nor more than sixty-seven thousand nine hundred (67,900), according to the 1990 federal census or any subsequent federal census, and at least one (1) municipality located in such county has adopted liquor by the drink;

(ii) Contains a 1.33 mile superspeedway;

(iii) Is situated on a site of at least five hundred (500) acres; and

(iv) Has a seating capacity of fifty thousand (50,000) with the capability to expand to one hundred fifty thousand (150,000) grandstand seats and one hundred (100) luxury skyboxes;

(B) "Motor speedway" also means a motor sports facility that possesses

the following characteristics:

(i) Is located in a county having a population in excess of eight hundred thousand (800,000), according to the 2000 federal census or any subsequent federal census;

(ii) Contains a three-quarter-mile oval track with a seating capacity of sixteen thousand (16,000) seats; and

(iii) Contains a one-quarter-mile drag strip with a seating capacity of fifteen thousand (15,000) seats;

(24)(A) "Museum" means a building or institution serving as a repository of natural, scientific or literary curiosities or works of art for public display and further possesses the following characteristics:

(i) The museum is at least fifty (50) years old; and

(ii) The museum is located in a county having a population in excess of seven hundred thousand (700,000), according to the 1980 federal census or any subsequent federal census;

(B) "Museum" also means an "art museum" which is a building or institution serving as a repository of works of art for public display and further possesses the following characteristics:

(i) The art museum is owned and operated by a bona fide charitable or nonprofit organization which has been in existence for at least twenty-five (25) years;

(ii) The art museum is located in a building which contains not less than fifty thousand square feet (50,000 sq. ft.); and

(iii) The art museum is located in a former world's fair site; and

(C) "Museum" also means a building or institution serving as a repository or exhibition facility for works of art for public display and further possesses the following characteristics:

(i) The museum is owned and operated by a bona fide charitable or nonprofit organization;

(ii) The museum is located in a building which contains not less than one hundred thousand square feet (100,000 sq. ft.);

(iii) The museum is located in a building that previously served as a United States postal service facility; and

(iv) The museum is located in a municipality or county having a population in excess of five hundred thousand (500,000), according to the 1990 federal census or any subsequent federal census;

(D) "Museum" also means a building or institution serving as a tribute to soul music and which houses a music academy and further possesses the following characteristics:

(i) The museum and music academy is located on the original site of a recording studio; and

(ii) The museum and music academy is located in a county having a population in excess of eight hundred thousand (800,000), according to the 2000 federal census or any subsequent federal census;

(E) "Museum" also means an "art museum" which is a building or institution serving as a repository of works of art for public display and further possesses the following characteristics:

(i) The art museum is owned and operated by a bona fide charitable or nonprofit organization;

(ii) The museum has been in existence for at least fifty (50) years;

(iii) The museum focuses on American art from the colonial period to

the present day;

(iv) The museum is located in a historical mansion and a sleek contemporary building on the bluffs overlooking the Tennessee River; and

(v) The museum does not discriminate against any patron on the basis of age, gender, race, religion or national origin; and

(vi) The museum is located in a county having a population of not less than three hundred seven thousand eight hundred (307,800) nor more than three hundred seven thousand nine hundred (307,900), according to the 2000 federal census or any subsequent federal census;

(F) "Museum" also means a building or institution dedicated to the public display, preservation, and promotion of fine metalwork and further possesses the following characteristics:

(i) The museum opened to the public in 1979;

(ii) The museum is located on at least three (3) acres overlooking the Mississippi River;

(iii) The museum features a fully operational blacksmith shop and sand-casting foundry;

(iv) The museum is owned and operated by a bona fide charitable or nonprofit organization; and

(v) The museum is located in a county having a population in excess of eight hundred thousand (800,000), according to the 2000 federal census or any subsequent federal census;

(25) "Paddlewheel steamboat company" means a company that operates one (1) or more paddlewheel steamboats for hire in interstate commerce upon navigable waterways and is licensed by the United States coast guard to carry not less than one hundred (100) passengers on a single vessel, with adequate facilities and equipment for serving regular meals, on regular schedules, or charter trips, while moving through or docked in any county of the state; provided, however, that no paddlewheel steamboat company licensed pursuant to this chapter shall sell any type of alcoholic beverage or beer while such paddlewheel steamboat is docked within the boundaries of any local government which has not approved the sale of alcoholic beverages pursuant to § 57-4-103;

(26) "Passenger train" includes any passenger train operating in interstate commerce under a certificate of public convenience and necessity issued by the appropriate federal or state agency, with adequate facilities and equipment for serving passengers, on regular or special schedules, or charter trips, while moving through any county of the state, but not while any such passenger train is stopped in a county or municipality that has not legalized such sales;

(27) A "premier type tourist resort" means:

(A) A commercially operated recreational facility possessing each of the following characteristics:

(i) Ownership and operation by a profit type corporation having a capitalization of not less than ten million dollars ($10,000,000);

(ii) Situated in a geographical area wholly controlled by the operator of the facility and having not less than six thousand (6,000) acres of contiguous land, not less than five thousand (5,000) acres of which is to be developed and maintained in accordance with sound ecological and environmental practices, such requirement to be subject at all times to

the oversight and approval of the department of environment and conservation, which shall not less often than once a year make a written report thereof to the commission. Satisfactory compliance with this requirement and certification thereof by the department to the commission shall be a condition precedent to the issuance or renewal of the permit provided for in § 57-4-201;

(iii) Continuous maintenance of lodging accommodations consisting of not less than two hundred (200) hotel or motel rooms in a building or buildings designed for such purpose;

(iv) Continuous maintenance of facilities for the accommodation of conventions of not less than four hundred (400) persons;

(v) Maintenance within the recreational area of at least one (1) of the following types of sporting facilities:

(a) A golf course of at least eighteen (18) holes;

(b) A lake covering not less than one hundred (100) acres adapted for boating and fishing;

(c) A ski slope;

(vi) Maintenance, in addition to one (1) or more of the facilities enumerated in subdivision (27)(A)(v), of two (2) or more of the following types of recreational facilities:

(a) Area for camping;

(b) Tennis courts;

(c) Swimming pool;

(d) Trails for hiking and/or horseback riding;

(e) Equestrian center;

(vii) A twenty-four-hour per day security force approved as to adequacy by the commission;

(B) A hotel, motel or restaurant located within a municipality having a population of one thousand (1,000) or more persons, according to the federal census of 1970 or any subsequent federal census in which at least fifty percent (50%) of the assessed valuation (as shown by the tax assessment rolls or books of the municipality) of the real estate in the municipality consists of hotels, motels, and tourist courts accommodations, providing the voters of the municipality have heretofore by referendum pursuant to § 57-4-103, approved the sale of alcoholic beverages for consumption on the premises, and such referendum shall be authorized, notwithstanding the population requirements set forth in § 57-3-106. For purposes of implementation of this subdivision (27)(B), the sale of alcoholic beverages shall be limited to hotels, restaurants, and clubs as defined in this section. To ensure proper control and development of the tourist industry of such municipality, any applicant for a license under this subdivision (27)(B) shall first obtain approval from a majority of the legislative body of the municipality, which may adopt rules and regulations governing its procedure and setting forth limitations and restrictions including, but not limited to, the number and location of licensed establishments and requiring approval by the legislative body as to the good moral character of each applicant for a license;

(C)(i) A commercially operated recreational facility containing all of the following characteristics:

(a) Ownership and operation by a profit type corporation or partnership;

(b) Situated in a geographical area controlled by the operator of the facility, having not less than two thousand five hundred (2,500) acres of land;

(c) Continuous maintenance of lodging accommodations consisting of not less than one hundred (100) hotel or motel rooms in a building or buildings designed for such purpose;

(d) The maintenance of a ski slope with necessary lifts or tows for use during skiing season;

(e) Continuous maintenance of restaurant facilities for seating at tables of not less than two hundred (200) persons, with adequate kitchen facilities; and

(f) Located within a municipality with a population of not less than one thousand fifty (1,050) nor more than one thousand seventy-five (1,075), according to the 1980 or any subsequent census;

(ii) To ensure proper control and development of the tourist industry of such municipality, any applicant for a license under this subdivision (27)(C) shall first obtain approval from a majority of the legislative body of the municipality, which may adopt rules and regulations governing its procedure and setting forth limitations and restrictions including, but not limited to, the number and location of licensed establishments and requiring approval by the legislative body as to the good moral character of each applicant for a license;

(D) A commercially operated facility possessing each of the following characteristics:

(i) Situated in a geographical area controlled by the operator of the facility, having not less than one hundred seventy-nine (179) acres of land;

(ii) A public golf course of at least eighteen (18) holes with a practice green and irrigation system;

(iii) Such facility has a club house with at least five thousand square feet (5,000 sq. ft.) that can accommodate up to two hundred fifty (250) guests for events;

(iv) Has separate meeting rooms for multiple events;

(v) Has a cart barn on the property that holds no less than sixty (60) golf carts;

(vi) Such facility has a maintenance shop with at least seven thousand square feet (7,000 sq. ft.);

(vii) Is located inside of:

(a) A black bear habitat community; and

(b) A conservation community;

(viii) Surrounded by over one hundred (100) rental cabins;

(ix) At least fifty percent (50%) of the property boundaries border a national park;

(x) Does not discriminate against any patron on the basis of age, gender, race, religion, or national origin; and

(xi) Is located in any county having a population of not less than one hundred twenty-three thousand one (123,001) nor more than one hundred twenty-three thousand one hundred (123,100) according to the 2010 federal census or any subsequent federal census;

(E) A commercially operated recreational facility containing all of the following characteristics:

(i) Ownership and operation by a for-profit corporation or partnership;

(ii) Located in a geographic area managed by the operator of the facility, containing a minimum area of one hundred fifty (150) contiguous acres;

(iii) Continuous maintenance of lodging accommodations of not less than fifty (50) rooms available for guests, tourists or for business meetings located in a building or buildings designed for accommodations or business meetings;

(iv) Maintenance of lakeside marina facilities, a golf course of not less than eighteen (18) holes, and riding trails and stables on the premises;

(v) Located within a municipality with a population of not less than six thousand three hundred seventy-five (6,375) nor more than six thousand four hundred (6,400), according to the 1980 or any subsequent federal census; and

(vi) Whose manager shall have been specifically approved by a majority of the legislative body of the municipality in which such licensee is located as being an individual of good moral character;

(F) A facility, whether open to the public or limited to members and guests of the development on which it is located, owned or operated, pursuant to a license by a homeowners or residential association, which facility is kept, used and maintained as a place where meals are served and where meals are actually and regularly served, with adequate and sanitary kitchen facilities and which facility meets all of the following characteristics:

(i) The facility must be located in a county having a population of not less than forty-seven thousand (47,000) nor more than forty-seven thousand five hundred (47,500), according to the 1990 federal census or any subsequent federal census;

(ii) The facility must be located on the premises of a planned, gated residential development of at least eighty (80) acres with at least nine thousand (9,000) lineal feet of water frontage on an established and designated navigable waterway; and

(iii) The facility must be located within the limits of a development which contains a marina and tennis court facilities;

(G) A club, either for profit or not for profit, which has been in existence for two (2) consecutive years during which time it has maintained a membership of at least three thousand (3,000) members and which maintains club facilities on or adjacent to property offering recreational services available to its members, which services shall include one (1) or more of the following:

(i) Golf course with at least eighteen (18) holes;

(ii) Tennis courts;

(iii) Marina facilities with a minimum of four hundred (400) slips.

Any such club whose club facilities are located on the premises of an area meeting the definition of a "premier type tourist resort" under this section may exercise its privileges authorized under this chapter anywhere within such area;

(H) A commercially operated recreational facility, whether open to the public or limited to members and guests of an association or of the development on which it is located, owned and operated by an association

or corporation and in connection with an eighteen-hole golf course, which facility is kept, used and maintained as a place where meals are actually and regularly served, with adequate and sanitary kitchen facilities, and which facility meets all of the following characteristics:

(i) The facility must be located in a county having a population of not less than thirty-four thousand seven hundred thirty (34,730) nor more than thirty-four thousand seven hundred sixty (34,760), according to the 1990 federal census or any subsequent federal census;

(ii) The facility must be located in a development containing no less than four hundred twenty (420) acres and no more than four hundred fifty (450) acres;

(iii) The facility must be located within limits of a development which contains an eighteen-hole golf course;

(iv) The facility must have no less than five thousand (5,000) enclosed square feet (5,000 sq. ft.);

(v) The facility must be located no less than one-half (½) mile from the right-of-way of an interstate highway; and

(vi) The facility must be located within the limits of a development which contains a lake of not less than twenty-eight (28) acres which is entirely within the limits of the development;

(I) A commercially operated recreational facility possessing each of the following characteristics:

(i)*(a)* Ownership and development by a for profit corporation;

(b) Situated in a geographic area controlled by such entity and having not less than twenty-five (25) contiguous acres of land which is divided by a four-lane highway;

(c) Designed to contain picnic facilities, museum buildings, retail sales areas, retail food dispensing outlets, and restaurant areas;

(d) Maintenance of a limited access area containing a former residence, a swimming pool, a handball court, and stables where no pedestrian access is allowed and all guests entering must be carried by a motor vehicle; and

(e) Location within a county having a population of not less than seven hundred seventy thousand (770,000), according to the 1990 federal census or any subsequent federal census;

(ii) "Premier type tourist resort," as defined in this subdivision (27)(I), shall be authorized to sell or serve alcoholic beverages on the premises of such resort only at special functions, wherein attendance is limited to invited guests or groups and not to the general public;

(J) An entity operating a commercial golf related recreational facility, whether open to the public or limited to members and guests of an association or owners and guests of a development upon or adjacent to which the facility is located, which entity or facility meets all of the following criteria:

(i) The facility is located in a county having a population of not less than thirty-four thousand seven hundred thirty (34,730) nor more than thirty-four thousand eight hundred (34,800), according to the 1990 federal census or any subsequent federal census;

(ii) The facility is operated in conjunction with an eighteen (18) hole golf course;

(iii) The facility is kept, used and maintained as a place where meals are actually and regularly served with such adequate and sanitary kitchen facilities as might be needed to meet the reasonable requirements of its patrons, members, or guests;

(iv) The entity does not discriminate or limit the use of the facilities solely on the basis of race, creed, sex, or national origin, and has provided to the commission a written certification of its policy;

(v) Such facility has enclosed clubhouse space of at least five thousand square feet (5,000 sq. ft.);

(vi) Such facility is located no less than seven (7) miles and no more than eight (8) miles from an interchange of an interstate highway; and

(vii) Such facility is located on a geographic area, owned or operated by the entity, which area contains not less than one hundred fifty-five (155) acres nor more than one hundred seventy (170) acres;

(K) A commercially operated recreational facility whether open to the public or limited to members and guests of an association or of the development on which it is located, owned and operated by an association or corporation and in connection with an eighteen-hole golf course, which facility is regularly kept, used and maintained as a place where meals are actually and regularly served, with adequate and sanitary kitchen facilities, and which facility meets all the following characteristics:

(i) The facility must be located in or adjacent to a real estate development containing no less than one thousand one hundred (1,100) acres and no more than two thousand (2,000) acres;

(ii) The facility must have no less than nine thousand (9,000) enclosed square feet;

(iii) The facility must be located within the limits of a development which is contiguous to a water reservoir operated and maintained by the United States army corps of engineers during 1998 or any subsequent years; and

(iv) Maintenance within the recreational area of the following types of recreational facilities:

(a) Golf course of at least eighteen (18) holes;

(b) Swimming pool;

(c) Tennis court; and

(d) Walking trails;

(L) A resort containing all of the following characteristics:

(i) Has a restaurant, with a current overall seating capacity of two hundred eighty (280), including outside dining service, and which serves over seventy-five thousand (75,000) patrons per year;

(ii) Is located immediately adjacent to the Cherokee National Forest, the only national forest in Tennessee and the Cherohala Skyway, one of only twenty (20) highways in the country designated as a national scenic byway;

(iii) Is located along the scenic Tellico River, a tributary of the Little Tennessee River;

(iv) Currently operates nine (9) cabins, a river walk, and an open-air chapel and pavilion;

(v) After a proposed expansion will include at least thirty (30) cottages, a full-service health and wellness spa, a championship golf course, racquet club, adventure club for canoeing, kayaking, hiking,

biking and other outdoor activities, an equestrian club, conference facilities, a hunt and fish club, crafts and education, and history tours; and

(vi) Is located within a county having a population of not less than thirty-eight thousand nine hundred (38,900) nor greater than thirty-nine thousand (39,000), according to the 2000 federal census or any subsequent federal census;

(M) A commercially or privately operated recreational facility containing all of the following characteristics:

(i) The facility is located within a platted housing subdivision of not less than four hundred (400) acres nor greater than five hundred twenty-five (525) acres;

(ii) The facility is located on or adjacent to an eighteen-hole golf course located within the development;

(iii) The facility is located within a development that operates a recreational swimming pool of at least sixty thousand gallons (60,000 gals.);

(iv) The facility operates and maintains tennis courts for use by homeowners, visitors, tourists, or guests;

(v) The facility operates a clubhouse for the use of homeowners, visitors, tourists, or guests of at least five thousand total square feet (5,000 sq. ft.) and the clubhouse houses a restaurant with seating at tables for at least forty (40) people and such restaurant has adequate kitchen facilities;

(vi) The facility is located within a county with a population of not less than thirty-nine thousand fifty (39,050) nor more than thirty-nine thousand one hundred fifty (39,150), according to the 2000 federal census or any subsequent federal census; and

(vii) The facility shall have been providing some or all of the described recreational services for a continuous period of at least four (4) years at the time of licensing;

(N) A commercially operated recreational facility, located adjacent to a navigational river which contains all of the following characteristics:

(i) Such facility has direct access to a navigable waterway;

(ii) Such facility contains a minimum of two hundred (200) slips for boats;

(iii) Such facility provides boat fuel, boat rental and repair;

(iv) Such facility is located upon or adjacent to a public park or preserve, which park is at least one hundred (100) acres in size, and which park contains a swimming pool, tennis courts and at least a nine (9) hole golf course; and

(v) Such facility is located within a county with a population of at least three hundred eighty thousand (380,000), according to the 2000 federal census or any subsequent federal census;

(O) An entity granted a franchise for the operation of a restaurant or food and beverage services on the premises of the premier type tourist resort, and for such purposes a premier type tourist resort shall have the privilege of granting such franchises;

(P) A commercially operated facility which contains all of the following characteristics:

(i) Such facility was licensed as a health club on December 31, 2015;

(ii) Such facility only allows members and their invited guests;

(iii) Such facility has two (2) swimming pools with one pool having at least fifteen thousand square feet (15,000 sq. ft.) of water surface;

(iv) Such facility provides volleyball courts, a basketball court and a recreation area with food service;

(v) Such facility is located within fifteen (15) miles of an airport;

(vi) Such facility does not discriminate against any patron on the basis of age, gender, race, religion or national origin; and

(vii) Such facility is located within a county having a population of not less than three hundred eighty-two thousand (382,000) nor more than three hundred eight-two thousand one hundred (382,100), according to the 2000 federal census or any subsequent federal census;

(Q) A commercially operated facility which contains all of the following characteristics:

(i) Such facility is located no more than three and one-half (3 ½) miles from the right of way of Interstate 40 and fronting on State Highway 92 and has a minimum of eight (8) acres of lake front property with a minimum of five thousand eight hundred feet (5,800′) of shore line;

(ii) Such facility has at least eighty (80) boat slips and forty-eight (48) dry slips, a boat launching ramp, a full service restaurant seating at least one hundred seventy-five (175) people inside with outside patio dining, a ships store offering boat supplies and gasoline, and an outdoor pavilion;

(iii) Such facility provides accommodations consisting of at least twenty (20) lakeside hotel/motel units in a building or buildings designed for such purposes;

(iv) Such facility is located within a county having a population of not less than forty-four thousand (44,000) nor more than forty-four thousand nine hundred (44,900), according to the 2000 federal census or any subsequent federal census; and

(v) Such facility shall also include any commercial boat for charter that departs from any such facility if the boat is licensed by the United States Coast Guard to carry not less than fifty (50) passengers on a single vessel and has adequate facilities and equipment for serving regular meals, on regular schedules, or charter trips, while moving through or docked in any county of the state;

(R) A commercially operated facility which at a minimum contains all of the following characteristics:

(i) Such facility is located within one (1) mile of the right-of-way of Interstate 40 and in an area zoned by the municipality as B-3; and

(ii) Such facility is located within a county having a population of not less than forty-four thousand (44,000) nor more than forty-four thousand nine hundred (44,900), according to the 2000 federal census or any subsequent federal census;

(S) A commercially operated facility which contains all of the following characteristics:

(i) Such facility is located no more than one-half (½) mile from the right of way of Interstate 75 and accessible to State Highway 68;

(ii) Such facility has at least nine thousand square feet (9,000 sq. ft.) of conference space;

(iii) Such facility provides accommodations consisting of at least one hundred twenty-five (125) hotel or motel rooms in a building or

buildings designed for such purposes;

(iv) Such facility provides recreational facilities including an indoor swimming pool;

(v) Such facility does not discriminate against any patron on the basis of age, gender, race, religion or national origin; and

(vi) Such facility is located within a county having a population of not less than thirty-eight thousand nine hundred (38,900) nor more than thirty-nine thousand (39,000), according to the 2000 federal census or any subsequent federal census;

(T) A nine-hundred-sixty-acre peninsula gated community located on a lake with ten (10) miles of shoreline, and which facility contains all of the following characteristics:

(i) Has an eighteen-hole golf course and tennis courts;

(ii) Has a club house, restaurant, lounge, fitness center, and swimming pool;

(iii) Maintains a community garden, community and neighborhood docks and a boat ramp;

(iv) Has an equestrian facility with extensive riding trails;

(v) Does not discriminate against any patron on the basis of age, gender, race, religion or national origin; and

(vi) Is located in two (2) counties one (1) county having a population of not less than thirty-eight thousand nine hundred (38,900) nor more than thirty-nine thousand (39,000) and the other county having a population of not less than thirty-nine thousand fifty (39,050), nor more than thirty-nine thousand one hundred fifty (39,150), both according to the 2000 federal census or any subsequent federal census;

(U) A facility which contains all the following characteristics:

(i) Has resort lodge condominiums, homes and vacation cottages;

(ii) Has an eighteen hole golf course and tennis courts with a pro shop;

(iii) Has a swimming pool;

(iv) Has rock climbing, hiking and biking trails;

(v) Has a full service spa;

(vi) Has banquet and dining services and a business service center;

(vii) Does not discriminate against any patron on the basis of age, gender, race, religion or national origin; and

(viii) Is located in a county having a population of not less than thirty-nine thousand eight hundred (39,800) nor more than thirty nine thousand eight hundred seventy-five (39,875), according to the 2000 federal census or any subsequent federal census;

(V) It is lawful for any establishment located in a premier type tourist resort as defined in § 67-6-103(a)(3)(B)(iii) which is licensed to serve beer to also serve wine to be consumed on the premises, subject to the further provisions of this chapter other than § 57-4-103;

(W) It is lawful for any establishment located in a municipality which:

(i) Has an approved Tourist Development Zone as set forth in title 7, chapter 88;

(ii) Has a AA minor league baseball team; and

(iii) Is located in a county with an amusement park, a ski resort, and a national park,

which is licensed to serve beer to also serve wine to be consumed on the premises, subject to the further provisions of this chapter other than

§ 57-4-103;

(X) A commercially operated recreational facility, located adjacent to a navigable river, that has all of the following characteristics:

(i) Contains at least one hundred (100) boating slips available for lease, rental, or use by guests;

(ii) Has one (1) or more restaurant facilities with a combined seating capacity of at least two hundred (200);

(iii) Has a lodge with at least fifteen (15) units available for transient lodging; and

(iv) Does not discriminate against any patron on the basis of age, gender, race, religion or national origin;

(Y) A commercially operated facility that has all of the following characteristics:

(i) Is located no more than six (6) miles from Interstate 40 at exit 427, and on both sides of a county highway known as Harrison Ferry Road. The facility contains a minimum of one hundred forty-three (143) acres, and includes a minimum of twenty-two (22) acres of land zoned commercial for future development at the corner of Back Nine Drive and Mountain View Lane;

(ii) Has an eighteen-hole golf course, two (2) practice putting greens, a practice chipping green and a practice area for golf instruction. The facility also contains a large swimming pool, a boat ramp into Douglas Lake, and two (2) tennis courts;

(iii) Has a clubhouse with a fully-equipped pro shop, a full-service restaurant seating at least one hundred fifty (150) persons inside, with an outside patio that seats at least seventy (70) persons;

(iv) Provides accommodations, consisting of at least twelve (12) hotel/motel units and at least nine (9) villa units; and

(v) Is located within an incorporated municipality having a population of less than five hundred (500), according to the 2000 federal census or any subsequent federal census, within a county having a population of not less than forty-four thousand two hundred (44,200) nor more than forty-four thousand three hundred (44,300), according to the 2000 federal census or any subsequent federal census; and

(vi) Does not discriminate against any patron on the basis of age, gender, race, religion or national origin;

(Z) An inn that has all of the following characteristics:

(i) Contains at least twelve (12) transient guest rooms in the main house;

(ii) Has a separate meeting lodge and facility that also houses at least four (4) new French country transient suites;

(iii) Has at least two (2) kitchens on the premises and offers at least two (2) meals daily;

(iv) Has an open-air, outdoor, sylvan chapel suitable for the accommodation of wedding ceremonies;

(v) Provides entertainment in the form of cooking demonstrations, storytelling and dulcimer playing;

(vi) Is listed in Distinguished Inns of North America, 16th Edition, by Select Registry; and

(vii) Does not discriminate against any patron on the basis of age, gender, race, religion or national origin;

(AA) A commercially operated facility that has all of the following characteristics:

(i) Is a full service colonial mansion located on an eighty-one-acre estate;

(ii) Contains no fewer than eight (8) transient rooms and seventeen (17) bathrooms;

(iii) Contains a dining room with capacity for fifty (50) persons that serves at least two (2) meals daily;

(iv) Has a heated swimming pool, a fitness center, a sauna, a tennis court and a billiard room;

(v) Has a system of hiking and walking trails;

(vi) Is listed in Distinguished Inns of North America, 16th Edition, by Select Registry; and

(vii) Does not discriminate against any patron on the basis of age, gender, race, religion or national origin;

(BB) A facility that has nine (9) acres of shoreline development on Watts Bar Lake and that has all of the following characteristics:

(i) Has one- to three-bedroom cottages;

(ii) Has a marina with two hundred fifty (250) slips, both wet and dry;

(iii) Has a restaurant and lounge;

(iv) Has a swimming pool;

(v) Has rental boats;

(vi) Does not discriminate against any patron on the basis of age, gender, race, religion or national origin; and

(vii) Is located in a county having a population of not less than twenty-eight thousand three hundred fifty (28,350) nor more than twenty-eight thousand four hundred fifty (28,450), according to the 2000 federal census or any subsequent federal census;

(CC) A development that has all the following characteristics:

(i) Has a well established marina with boat rentals, gasoline, guide services, etc., and a resort operating for more than fifty (50) years;

(ii) Includes more than two hundred (200) acres on Watts Bar Lake;

(iii) Has forty (40) cottages rented on a daily or weekly basis;

(iv) Has a restaurant;

(v) Has walking and nature trails;

(vi) Does not discriminate against any patron on the basis of age, gender, race, religion or national origin; and

(vii) Is located in a county having a population of not less than twenty-eight thousand three hundred fifty (28,350) nor more than twenty-eight thousand four hundred fifty (28,450), according to the 2000 federal census or any subsequent federal census;

(DD) Any facility located in a municipality that has a civil war battlefield:

(i) Of which more than one thousand four hundred (1,400) acres have been designated in the National Register of Historic Places;

(ii) For which a management contract has been entered into between the municipality and the Tennessee historical commission;

(iii) Which has a self-guided driving tour;

(iv) For which long-range plans include walking trails, interpretive signs and a visitor's center with a museum;

(v) At which, every two (2) years, a living history and reenactment of

the battle fought in December, 1862 is presented;

(vi) That is famous for the southern general's order to his troops to "Charge them both ways"; and

(vii) Is located in a county having a population of not less than twenty-five thousand four hundred fifty (25,450) nor more than twenty-five thousand five hundred fifty (25,550), according to the 2000 federal census or any subsequent federal census;

(EE) A facility that has at least fourteen (14) acres located on a lake of at least eight thousand (8,000) acres and that has the following characteristics:

(i) Contains at least three hundred and fifty (350) boat slips;

(ii) Contains a dry storage facility;

(iii) Provides boat rentals;

(iv) Contains a marine store;

(v) Contains a full service restaurant with seating for at least one hundred fifty (150) people, as well as a private banquet facility;

(vi) Has motel rooms and cabins for rent;

(vii) Contains a swimming pool;

(viii) Does not discriminate against any patron on the basis of age, gender, race, religion or national origin; and

(ix) Is located in a county having a population of not less than fifty-six thousand seven hundred (56,700) nor more than fifty-six thousand eight hundred (56,800), according to the 2000 federal census or any subsequent federal census;

(FF) A facility that has three hundred eighty-five (385) acres of development on J. Percy Priest Lake and that has all the following characteristics:

(i) Has a water park;

(ii) Has a marina with more than three hundred twenty (320) slips;

(iii) Has a recreational vehicle (RV) campground;

(iv) Does not discriminate against any patron on the basis of age, gender, race, religion or national origin; and

(v) Is located in a county having a population of not less than five hundred thousand (500,000), according to the 2000 federal census or any subsequent federal census;

(GG) A development that has all of the following characteristics:

(i) Has a well established marina with boat slip rentals, gasoline, etc.;

(ii) Includes three hundred eighty-five (385) acres on J. Percy Priest Lake;

(iii) Has a water park;

(iv) Has a recreational vehicle (RV) campground;

(v) Does not discriminate against any patron on the basis of age, gender, race, religion or national origin; and

(vi) Is located in a county having a population of not less than five hundred thousand (500,000), according to the 2000 federal census or any subsequent federal census;

(HH) A fully staffed overnight accommodations facility that:

(i) Is open twenty-four (24) hours a day, located on thirty-four (34) acres of land, that offers at least one (1) meal per day, along with hiking, a fitness facility, an event lawn, and a retail store;

(ii) Has twenty (20) one- and two-bedroom cabins that have kitchens or kitchenettes, wood-burning fireplaces, hot tubs, and high-speed

internet access;

(iii) Has a one thousand five hundred square foot (1,500 sq. ft.) meeting facility with a capacity of up to one hundred twenty-five (125) persons, and a restaurant with a capacity of up to eighty-five (85) persons, both of which have high-speed internet access; and

(iv) Does not discriminate against any patron on the basis of age, gender, race, religion, or national origin;

(II) A commercially operated facility containing all of the following characteristics:

(i) The facility has a marina with approximately one hundred sixty-six (166) wet slips and approximately one hundred thirty-three (133) dry storage units;

(ii) The facility is located within a lake-resort, gated residential development of at least one thousand two hundred (1,200) acres having in excess of four hundred fifty (450) single family homes and condominium units;

(iii) The facility is located on a lake that has over eight hundred thirty-four (834) miles of shore line;

(iv) The facility will have a restaurant with a seating capacity of at least fifty (50) people, serving at least two (2) meals a day;

(v) The facility does not discriminate against any patron on the basis of age, gender, race, religion or national origin; and

(vi) The facility is located within a county having a population of not less than thirty-nine thousand eight hundred (39,800) nor more than thirty-nine thousand eight hundred seventy-five (39,875), according to the 2000 federal census or any subsequent federal census;

(JJ)(i) A commercially-operated facility containing all of the following characteristics:

(a) The facility has on its premises a marina that has at least two hundred fifty (250) covered or uncovered wet slips and at least seventy-five (75) dry rack slips;

(b) The facility has on its premises property leased or available for lease to a boating, yachting or water-based recreational club;

(c) The facility has on its premises a restaurant, providing food service to the public or for private events, with seating in the restaurant for at least fifty (50) persons at tables, whether or not the seating is inside or on a deck or patio adjacent to the restaurant;

(d) The facility has the capacity to serve as a home berth location for a commercial vessel for hire or for public cruises of at least seventy-five feet (75′) in length;

(ii) When used in this subdivision (27)(JJ), the "facility" under subdivision (27)(JJ)(i) shall include any location within the property designated by the licensee;

(iii) A facility under this subdivision (27)(JJ) shall also include any passenger sternwheel paddleboat, licensed by the United States coast guard, with rated passenger capacity of not less than one hundred (100) passengers and which paddleboat shall be at least seventy-five feet (75′) in length, which may use the marina facilities as described in subdivision (27)(JJ)(i) for its home or principal secondary port dock. The authority conferred under this subdivision (27)(JJ)(iii), authorizing the sale or distribution of alcoholic beverages, including beer, on any

qualified sternwheel paddleboat shall extend only so long as the paddleboat is located at the marina facility described in subdivision (27)(JJ)(i) or is within one hundred (100) miles of the marina facility;

(iv) For purposes of obtaining a license under this subdivision (27)(JJ), the commission shall be authorized to issue a license solely to the owner or operator of a sternwheel paddleboat, meeting the qualifications of subdivision (27)(JJ)(iii), whether or not the facility described in subdivision (27)(JJ)(i) receives a license under this chapter;

(KK) A commercially operated restaurant located within a county having a population of not less than thirty-nine thousand seven hundred fifty (39,750) nor more than forty thousand (40,000) and also located within the corporate limits of a municipality having a population of not less than seven thousand seven hundred fifty (7,750) nor more than eight thousand (8,000), according to the 2000 federal census or any subsequent federal census, and in addition to satisfying the requirements of subdivision (30)(A), also meets the following additional requirements:

(i) The facility is in a structure of not less than six thousand square feet (6,000 sq. ft.);

(ii) The facility has seating at tables, for at least two hundred (200) persons; and

(iii) The facility serves at least two (2) meals a day, five (5) days a week, with the exception of holidays, vacations and periods of redecorating;

(LL) A commercially operated recreational facility containing all of the following characteristics:

(i) Owning and operating one (1) or more golf courses, that include practice putting greens, chipping greens and a driving range;

(ii) Operating a clubhouse facility, of at least eight thousand square feet (8,000 sq. ft.), containing a commercial quality kitchen and seating for at least one hundred (100) persons at tables;

(iii) Operating a private clubhouse of at least five thousand square feet (5,000 sq. ft.), with seating at tables for at least eighty (80) persons, and which private clubhouse contains a full service kitchen;

(iv) Located on a minimum of one hundred thirty-seven (137) acres; and

(v) Located within a county through which a major interstate passes, supports a Tennessee board of regents university of approximately nine thousand three hundred (9,300) students for the 2006 academic year and whose sports teams are nicknamed the golden eagles;

(MM) A facility operated either commercially or on a nonprofit basis as a club containing all of the following characteristics:

(i) A clubhouse having not less than approximately five thousand eight hundred square feet (5,800 sq. ft.);

(ii) An eighteen-hole golf course for use by its members and their guests;

(iii) A restaurant with a suitable kitchen, dining facilities and equipment serving two (2) meals daily and open six (6) days a week;

(iv) Is part of a planned unit development;

(v) Has at least one hundred (100) members regularly paying dues;

(vi) Does not discriminate against any patron on the basis of age, gender, race, religion or national origin; and

(vii) Is located in a county having a population of not less than three hundred seven thousand eight hundred (307,800) nor more than three hundred seven thousand nine hundred (307,900), according to the 2000 federal census or any subsequent federal census;

(NN) It is lawful for a facility providing full service dining to serve wine to be consumed on the premises, subject to the further provisions of this chapter, other than § 57-4-103, that contains the following characteristics:

(i) The facility provides seating at tables for not less than one hundred twenty-five (125) persons and is located on approximately three (3) acres;

(ii) The dining area is at least four thousand eight hundred square feet (4,800 sq. ft.);

(iii) The facility provides seating, on a deck or a patio, for at least forty (40) persons, weather permitting, which deck or patio is in close proximity to a river or waterway; and

(iv) The facility is located in a county with a population of not less than twenty-three thousand (23,000) nor more than twenty-three thousand two hundred (23,200), according to the 2000 federal census or any subsequent federal census;

(OO) A commercially operated facility containing all of the following characteristics:

(i) The facility has overnight accommodations for at least thirty-two (32) people in at least twelve (12) private guest rooms with en-suite bathrooms;

(ii) The facility has a main dining room which seats at least thirty-two (32) people;

(iii) The facility has meeting and conference space, including at least two (2) dedicated conference rooms;

(iv) The facility has a historic water-operated grist mill;

(v) The facility does not discriminate against any patron on the basis of age, gender, race, religion or national origin; and

(vi) The facility is located within a county having a population of not less than seventeen thousand four hundred (17,400) nor more than seventeen thousand four hundred fifty (17,450), according to the 2000 federal census or any subsequent federal census;

(PP) A commercially operated facility containing all of the following characteristics:

(i) The facility has a marina with at least four hundred thirty-five (435) wet slips;

(ii) The facility has a minimum of four hundred twelve (412) paved single car parking spaces and in addition at least thirty (30) car/trailer paved parking spaces;

(iii) The facility has a restaurant with inside seating for at least seventy-eight (78) persons and patio dining for at least fifty-four (54) persons;

(iv) The facility is located within one great circle mile of Tennessee highway 56;

(v) The facility is located on a lake with at least eighteen thousand (18,000) acres of water and at least three hundred forty-two (342) miles of shore line; and

(vi) The facility is located within a county having a population of not less than seventeen thousand four hundred (17,400) nor more than seventeen thousand four hundred fifty (17,450), according to the 2000 federal census or any subsequent federal census;

(QQ)(i) A commercially operated facility containing all of the following characteristics:

(a) Owning and operating a golf course that is open to the public, that includes practice putting and chipping greens and a driving range;

(b) Operating a clubhouse facility of approximately four thousand square feet (4,000 sq. ft.), containing a commercial quality kitchen and seating for at least eighty-three (83) persons inside at tables;

(c) The facility is located at the intersection of State Highway 55 and Pete Sain Road;

(d) The facility does not discriminate against any patron on the basis of gender, race, religion or national origin; and

(e) The facility is located within a county having a population of not less than forty-eight thousand (48,000) nor more than forty-eight thousand one hundred (48,100), according to the 2000 federal census or any subsequent census;

(ii) The rights of any facility licensed under this subdivision (27)(QQ) as to activities permitted under this chapter may be held by the entity that owns the facility, the entity that leases the facility, or an entity operating a restaurant pursuant to a written contract with the entity that owns or leases the facility;

(RR) A commercially operated recreational facility on at least ninety (90) acres of land that borders the Cherokee National Forest that offers lodging, recreation and restaurant packages to patrons containing all of the following characteristics:

(i) A rustic lodge with at least five (5) private overnight rooms that all possess a king-sized bed, mini-refrigerator, coffee maker, microwave, television, sitting area and private full bathroom, all of which have views of the mountains and are situated in a lodge with a shared great room and hot tub;

(ii) At least ten (10) cabins for overnight stays that sleep multiple persons, some of which are company-owned and some of which are privately-owned but rented by the company, and include the following amenities: television, outdoor hot tub on private deck, heat and air conditioning, gas grill, cookware, fireplace, linens and towels and large and small appliances including washer/dryer and all common kitchen appliances;

(iii) Riding stables with at least twenty-two (22) stalls for both horses owned by the resort and for overnight lease for or by guests, on-site guided trail rides provided by the owners, a horse arena with a bathroom, mountain biking, hiking, fishing including an on-site stocked pond and swimming in the guest swimming pool;

(iv) A dining restaurant that possesses a kitchen and is currently permitted to serve beer that is attached to a larger multi-purpose hall that hosts banquets, dining, dancing, music, live bands and other types of entertainment, all of which are connected to two (2) bars and at least one (1) private room and includes dining upstairs and downstairs and

multiple outdoor seating decks, all of which possess a combined seating of at least two hundred (200) persons, that serves at least nine (9) meals on a weekly basis, with the exceptions of closures for private groups that include the year-round hosting of reunions, weddings and corporate workshops and seasonal closures, vacations, general maintenance and remodeling by the owners;

(v) A building that contains an administrative office and a general store complete with all sorts of merchandise for use on and off of the premises of the resort, a building that contains a tack store that sells all sorts of horse-related merchandise and a building that contains a game room;

(vi) An outdoor pavilion that possesses a grill and in which other outdoor cooking devices may be used and that is used to serve meals outdoors in combination with foods prepared in the kitchen;

(vii) A gazebo used for outdoor weddings;

(viii) When used in this subdivision (27)(RR), "facility" includes any location within the property designated by the licensee;

(ix) Does not discriminate against any patron on the basis of age, gender, race, religion or national origin; and

(x) Is located within a county having a population of not less than thirty-three thousand five hundred twenty-five (33,525) nor more than thirty-three thousand six hundred (33,600), according to the 2000 federal census or any subsequent federal census;

(SS)(i) A commercially operated recreational facility, whether open to the public or limited to members and guests of a corporation, limited liability company, association or of the development in which it is located, owned and operated by a corporation, limited liability company or association, having all of the following characteristics:

(a) The facility must be located in or adjacent to a residential real estate development containing no less than one thousand (1,000) acres and no more than two thousand (2,000) acres, inclusive of the facility;

(b) The facility must have at least three (3) permanent structures, open to the public or to members and their guests, with the largest structure having at least thirty thousand square feet (30,000 sq. ft.) of enclosed space;

(c) The closest boundary of the real estate development in which the facility is located must be located no more than two thousand feet (2,000′) from the right-of-way of Interstate 840 and must be directly adjacent to Arno Road;

(d) The facility must maintain the following types of recreational amenities:

(1) A golf course having at least eighteen (18) holes;

(2) At least one (1) swimming pool;

(3) At least one (1) tennis court; and

(4) A fitness facility;

(e) The facility must have at least one (1) room or rooms that are regularly kept, used and maintained as a place where meals are regularly served, with adequate and sanitary kitchen facilities and seating at tables for at least seventy-five (75) persons;

(f) The facility must be located in a county having a population of not less than one hundred twenty-six thousand six hundred (126,600)

nor more than one hundred twenty-six thousand seven hundred (126,700), according to the 2000 federal census or any subsequent federal census; and

(g) The facility must not discriminate against any patron on the basis of age, gender, race, religion or national origin;

(ii) The premises of any facility licensed under this subdivision (27)(SS) means any or all of the property that constitutes the facility, including swimming pools, tennis courts, golf courses, paths and road crossings. A licensee shall designate the premises to be licensed by the commission by filing a drawing of the premises, which may be amended by the licensee filing a new drawing;

(TT)(i) A commercially operated recreational facility which contains each of the following characteristics:

(a) Is located within a county with a population of not less than seventeen thousand (17,000) nor greater than eighteen thousand (18,000), according to the 2010 federal census or any subsequent federal census;

(b) Has located on its premises, stables for the temporary or permanent stabling of horses with a capacity of at least two hundred twenty (220) horses;

(c) Consists of property of at least ten thousand (10,000) acres, contiguous and noncontiguous;

(d) Has located upon its premises trails and horseback riding, wagon trails, campsites with electrical service, bathhouses and a pavilion for cookouts; and

(e) Has a restaurant facility for the preparation and serving of food and beverages to guests of the facility located at the facility;

(ii) The rights of the facility as to activities permitted under this chapter may be held by the entity which owns the facility, the entity which leases the facility, or an entity operating the restaurant pursuant to a written contract with the entity which owns or leases the facility;

(iii) The facility may be a contiguous parcel of property or may be noncontiguous; provided, that any part of the facility which is noncontiguous to any other part of the facility is separated only by a roadway or street; and

(iv) The entity excising the rights of the facility shall be authorized to engage in the activities permitted under this chapter anywhere on the premises of the facility as disclosed to the commission;

(UU) A privately owned facility possessing each of the following characteristics:

(i) Is located on at least twenty (20) acres;

(ii) Has a restaurant facility with at least one thousand two hundred square feet (1,200 sq. ft.) that seats at least one hundred (100) patrons at tables located both inside and outside the facility;

(iii) Has a marina with at least one hundred (100) slips and that provides house boat rentals of at least four (4) house boats;

(iv) Has at least four (4) cabins, seven (7) camping slots and at least three (3) RV slots;

(v) Has a boat repair shop and a store that carries boating and skiing type items;

(vi) Does not discriminate against any patron on the basis of age,

gender, race, religion or national origin; and

(vii) Is located within any county having a population of not less than seventeen thousand eight hundred (17,800) nor more than seventeen thousand eight hundred seventy-five (17,875), according to the 2000 federal census or any subsequent federal census;

(VV) A commercially operated facility containing all of the following characteristics:

(i) The facility has a marina with at least two hundred forty (240) wet slips;

(ii) The facility has a minimum of nine (9) housing units for rent containing nineteen (19) bedrooms;

(iii) The facility has a campground with twelve (12) sites containing electric and sewer hookups;

(iv) The facility has a minimum of one hundred forty-seven (147) paved single car parking spaces;

(v) The facility has a restaurant with inside seating for at least twenty-eight (28) persons and patio dining for at least forty (40) persons;

(vi) The facility has an outdoor pavilion which seats one hundred fifty (150) persons;

(vii) The facility is located on Jefferson Road, approximately six and one tenth (6.1) miles from the intersection with Highway 288/Kelton-burg Road and thirteen (13) miles from Highway 70;

(viii) The facility is located on a lake with at least eighteen thousand (18,000) acres of water and at least three hundred forty-two (342) miles of shore line; and

(ix) The facility is located within a county having a population of not less than seventeen thousand four hundred (17,400) nor more than seventeen thousand four hundred fifty (17,450), according to the 2000 federal census or any subsequent federal census;

(WW) A commercially operated facility containing all of the following characteristics:

(i) The facility has a minimum of eighty seven (87) parking spaces;

(ii) The facility has a restaurant open year-round with inside seating for at least sixty (60) persons and outside seating for at least one hundred nineteen (119) persons;

(iii) The facility is located on Highway 96 less than one (1) mile from Center Hill Lake; and

(iv) The facility is located within a county having a population of not less than seventeen thousand four hundred (17,400) nor more than seventeen thousand four hundred fifty (17,450), according to the 2000 federal census or any subsequent federal census;

(XX) A commercially operated facility containing all of the following characteristics:

(i) The facility has a minimum of eighty five (85) parking spaces;

(ii) The facility has a restaurant open year-round at least six (6) days a week with inside seating for at least one hundred (100) persons and outside seating for at least one hundred twenty (120) persons;

(iii) The facility is located on Highway 70 less than three (3) miles from Center Hill Lake; and

(iv) The facility is located within a county having a population of not less than seventeen thousand four hundred (17,400) nor more than seventeen thousand four hundred fifty (17,450), according to the 2000

federal census or any subsequent federal census;

(YY) A commercially operated facility containing all of the following characteristics:

(i) The facility owns and operates an eighteen (18) hole golf course that is open to the public, which includes putting greens and a driving range;

(ii) The facility operates a clubhouse facility of approximately five thousand (5,000) square feet, with seating at tables for at least eighty (80) persons and which clubhouse contains a full-service kitchen;

(iii) The facility operates a swimming pool;

(iv) The facility is located on a minimum of one hundred thirty-three (133) acres;

(v) The facility is located adjacent to old Highway 45W and is situated within a county having a population of not less than forty-eight thousand one hundred twenty-five (48,125) nor more than forty-eight thousand two hundred (48,200), according to the 2000 federal census or any subsequent federal census; and

(vi) The facility does not discriminate against any patron on the basis of gender, race, religion or national origin;

(ZZ) A commercially operated facility containing all of the following characteristics:

(i) The facility has a marina with at least five hundred thirty (530) wet slips;

(ii) The facility has a minimum of two hundred fifty (250) paved single car parking spaces;

(iii) The facility has a restaurant with inside seating for at least eighty (80) persons and outside seating for at least sixty (60) persons;

(iv) The facility is located on a lake with at least eighteen thousand (18,000) acres of water and at least three hundred forty-two (342) miles of shore line; and

(v) The facility is located within a county having a population of not less than seventeen thousand four hundred (17,400) nor more than seventeen thousand four hundred fifty (17,450), according to the 2000 federal census or any subsequent federal census;

(AAA) A commercially operated facility containing all of the following characteristics:

(i) The facility includes a one hundred forty-seven thousand square foot (147,000 sq. ft.) boat and RV showroom and service center with retail sales of all types of camping and boating equipment as well as a boat and RV parts department;

(ii) The facility has a two hundred fifty (250) seat full service restaurant;

(iii) The facility has a two hundred fifty (250) site campground with two (2) swimming pools, cabins and a lodge;

(iv) The facility is a travel center with a store, pizzeria, delicatessen, fuel center;

(v) The facility has an arcade;

(vi) The facility is located at 2475 Westel Road; and

(vii) The facility is located within a county having a population of not less than forty-six thousand eight hundred (46,800) nor more than forty-six thousand nine hundred (46,900), according to the 2000 federal

census or any subsequent federal census;

(BBB) A commercially operated facility containing all of the following characteristics:

(i) The facility has a marina with at least one hundred one (101) wet slips;

(ii) The facility has a minimum of sixty (60) paved single car parking spaces;

(iii) The facility has a restaurant with adequate and sanitary kitchen facilities with inside seating for at least forty (40) persons and outside seating for at least one hundred fifty (150) persons and is kept, used and maintained as a place where meals are served and where meals are actually and regularly served when the facility is opened for business; and

(iv) The facility is located within a county having a population of not less than thirty-one thousand one hundred (31,100) nor more than thirty-one thousand two hundred (31,200), according to the 2000 federal census or any subsequent federal census;

(CCC) A commercially operated facility which contains all of the following characteristics:

(i) Is a bed and breakfast homestay, as defined in § 68-14-502(1)(B), that opened in 2008;

(ii) Has at least two (2) rooms available for overnight guests;

(iii) Is able to prepare on-site custom meals for up to thirty (30) persons;

(iv) Offers cooking classes; and

(v) Is located within any county having a population of not less than one hundred eighty-two thousand (182,000) nor more than one hundred eighty-two thousand one hundred (182,100), according to the 2000 federal census or any subsequent federal census;

(DDD) A commercially operated recreational facility whether open to the public or limited to members and guests of an association or of the development on which it is located, owned, and operated by an association or corporation and in connection with an eighteen-hole golf course which facility is regularly kept, used, and maintained as a place where meals are actually and regularly served, with adequate and sanitary kitchen facilities, and which facility meets all the following characteristics:

(i) The facility must have a clubhouse with no less than six thousand enclosed square feet (6,000 sq. ft.);

(ii) The facility must be located within the limits of a development that is within five hundred yards (500 yds.) of a water reservoir operated and maintained by the United States Army corps of engineers during 1998 or any subsequent years;

(iii) The facility must be located within at least three (3) miles of an airport with lighted runway of at least three thousand feet (3000′) in length;

(iv) Maintenance within the recreational area of the following types of recreational facilities:

(a) Golf course of at least eighteen (18) holes;

(b) Swimming pool; and

(c) Tennis court; and

(v) The facility is located within a county having a population of not less than twenty-nine thousand eight hundred (29,800) nor more than twenty-nine thousand nine hundred (29,900), according to the 2000 federal census or any subsequent federal census;

(EEE) A privately-owned resort and recreational facility possessing each of the following characteristics:

(i) Has at least ninety-five (95) acres located approximately five (5) miles south of Interstate 40 on Tennessee State Highway 13;

(ii) Is fronted on the west side by Tennessee State Highway 13 and bordered on the south side by a scenic river as defined in title 11, chapter 13, part 1;

(iii) Has at least four (4) cabins;

(iv) Has at least thirty (30) recreational vehicle pads and sites with full electrical, water and sewer hookups;

(v) Has at least a forty-seat restaurant which has been approved by the local health department that has an approved beer permit and has food available, with exceptions of closures for private groups or events, seasonal closures, vacations, general maintenance and remodeling by the owners;

(vi) When used in this subdivision (27)(EEE), the "facility" shall include any location within the property designated by the licensee;

(vii) Does not discriminate against any patron on the basis of age, gender, race, religion, or national origin; and

(viii) Is located within any county having a population of not less than seven thousand six hundred (7,600) nor more than seven thousand seven hundred (7,700), according to the 2000 census or any subsequent federal census; and the legislative body of such county adopts a resolution endorsing such resort and recreational facility as a premier type tourist resort as defined in this subdivision (27);

(FFF) A commercially operated facility containing all of the following characteristics:

(i) Has a restaurant serving an upscale menu featuring lobster tail, crab legs and fresh cut steaks;

(ii) Is located on a lake by a marina;

(iii) Has a boat dock within walking distance of the restaurant;

(iv) Has indoor seating for approximately one hundred thirty (130) diners and outdoor dining on the patio with seating for approximately one hundred eighty (180);

(v) Offers live entertainment on the patio at its Tiki Bar; and

(vi) Is located in any county having a population of not less than forty-four thousand two hundred (44,200) nor more than forty-four thousand three hundred (44,300), according to the 2000 federal census or any subsequent federal census;

(GGG) A privately-owned resort and recreational facility possessing each of the following characteristics:

(i) Has a dock with marina which has at least one hundred seventy (170) boat slips which is located on or near the four hundred eighty-two (482) mile marker on the Tennessee River;

(ii) Has an outside gazebo which is used for various functions;

(iii) Has a restaurant with a dining room of at least four thousand two hundred square feet (4,200 sq. ft.), which seats at least two hundred

(200) persons both indoors and outdoors, including an outdoor balcony; and which serves meals at least four (4) days on a weekly basis including Sunday brunch, with exceptions of closures for private groups or events; and seasonal closures, vacations, general maintenance and remodeling by the owners;

(iv) When used in this subdivision (27)(GGG), the "facility" shall include any location within the property designated by the licensee; and

(v) Does not discriminate against any patron on the basis of age, gender, race, religion, or national origin;

(HHH) A commercially operated facility containing all of the following characteristics:

(i) Regularly serves meals at tables and continuously maintains adequate kitchen facilities;

(ii) Has indoor seating for approximately one hundred twenty (120) diners and outdoor seating for approximately one hundred thirty (130);

(iii) Is located on the banks of the Cumberland River;

(iv) Has a transient boat dock within walking distance of the restaurant;

(v) Specializes in serving catfish and is often referred to as "the Catfish Place under the bridge"; and

(vi) Is located in any county having a population of not less than thirty-nine thousand one hundred (39,100) nor more than thirty-nine thousand two hundred (39,200), according to the 2010 federal census or any subsequent federal census;

(III) A bed and breakfast possessing each of the following characteristics:

(i) The house is approximately ten thousand square feet (10,000 sq. ft.) and has rooms for approximately twelve (12) guests to stay overnight;

(ii) Has a smaller upper level patio and a larger, lower level patio;

(iii) Has a main dining room on the first floor which can accommodate approximately seventy (70) guests. The main dining room is one (1) large room with floor to ceiling windows providing one hundred eighty degrees (180°) of lakefront viewing;

(iv) Has accommodations for an additional forty (40) guests for outside dining;

(v) Is located in the Long Branch portion of Dale Hollow Lake;

(vi) The property on which the bed and breakfast is situated has space for weddings, family reunions and other large gatherings on the large outside portion of the property; and

(vii) Is located in any county having a population of less than seven thousand eight hundred fifty-one (7,851) nor more than seven thousand eight hundred sixty-five (7,865), according to the 2010 federal census or any subsequent federal census;

(JJJ) A hotel possessing all of the following characteristics:

(i) Contains at least twenty five (25) rooms for the sleeping accommodations of guests;

(ii) Is registered as a national historic landmark;

(iii) Is located within a central business improvement district; and

(iv) Is located in any county having a population of not less than four hundred thirty-two thousand two hundred (432,200) nor more than four hundred thirty-two thousand three hundred (432,300), according to the

2010 federal census or any subsequent federal census;

(KKK) A commercially operated recreational facility possessing each of the following characteristics:

(i) Is located at least two hundred feet (200′) from a natural lake that is located in or near a state park, which has waterfowl hunting and fishing is available year round;

(ii) Has a restaurant which has:

(a) A beer license;

(b) A commercial kitchen; and

(c) Seating for at least seventy-five (75); and

(iii) Has a boat ramp and boat dock;

(LLL) A commercially operated facility containing all of the following characteristics:

(i) The facility has a restaurant open year-round with inside seating for at least seventy-five (75) persons;

(ii) The facility has a minimum of eighty-five (85) parking spaces;

(iii) The facility is located on Highway 70 less than three (3) miles from Center Hill Lake; and

(iv) The facility is located within a county having a population of not less than eighteen thousand seven hundred (18,700) nor more than eighteen thousand seven hundred fifty (18,750), according to the 2010 federal census or any subsequent federal census;

(MMM)(i) A commercially operated recreational facility possessing all of the following characteristics:

(a) A golf course of at least eighteen (18) holes;

(b) Wooded trails for horseback riding;

(c) A fully stocked fishing pond;

(d) At least three (3) tennis courts;

(e) Located in any county having a population of not less than one hundred eighty-three thousand one hundred (183,100) nor more than one hundred eighty-three thousand two hundred (183,200), according to the 2010 federal census or any subsequent federal census; and

(f) Is located no more than two thousand feet (2,000′) from the right-of-way of Interstate 840 and must be directly adjacent to Arno Road;

(ii) The premises of any facility licensed under this subdivision (27)(MMM) means any or all of the property that constitutes the facility, including swimming pools, tennis courts, golf courses, paths, and road crossings. A license shall designate the premises to be licensed by the commission by filing a drawing of the premises, which may be amended by the licensee filing a new drawing;

(NNN) A commercially owned marina containing all of the following characteristics:

(i) Operates as a marina on approximately forty-six (46) acres of land;

(ii) Has a restaurant with at least one hundred ten (110) seats;

(iii) Has approximately two hundred (200) boat slips;

(iv) Has seven (7) cabins; and

(v) Is located in a county having a population of not less than forty-four thousand five hundred (44,500) nor more than forty-four thousand six hundred (44,600), according to the 2010 federal census or any subsequent federal census;

(OOO) A commercially operated facility containing all of the following characteristics:

(i) Operates as a hunting lodge on approximately four hundred (400) acres of land;

(ii) Has adequate kitchen facilities and a dining area within the hunting lodge with seating of at least fifty (50) at tables;

(iii) Has capacity to sleep at least thirty (30) guests within the main hunting lodge and at least twenty (20) guests in a cabin located on the property; and

(iv) Is located off I-40 at Exit 311 in any county having a population of not less than fifty-six thousand (56,000) nor more than fifty-six thousand one hundred (56,100), according to the 2010 federal census or any subsequent federal census;

(PPP) A commercially operated facility open to the public for persons twenty-one (21) years of age or older that has all of the following characteristics:

(i) Is located within three (3) miles of Dale Hollow Lake;

(ii) Has a kitchen that serves food to customers;

(iii) Is licensed to sell beer;

(iv) Is located in an A frame building built in 1968;

(v) Has a deck of more than one thousand square feet (1,000 sq. ft); and

(vi) Is located in any county having a population of not less than seven thousand eight hundred fifty-one (7,851) nor more than seven thousand eight hundred sixty-five (7,865), according to the 2010 federal census or any subsequent federal census;

(QQQ)(i) A commercially operated resort, restaurant, marina and recreational facility possessing all of the following characteristics:

(a) Is located on at least five (5) acres but no more than seven (7) acres at day marker four (4) as designated by the Tennessee Valley authority on Norris Lake;

(b) Has a marina with at least one hundred forty-five (145) boat slips, most of which are contracted for use on an annual basis, but also includes use for drive-ups;

(c) Rents pontoon, ski, and house boats;

(d) Has a marina store;

(e) Has a restaurant with a full service kitchen with combined seating indoors and outdoors for at least one hundred (100) patrons;

(f) Has a restaurant that serves at least twelve (12) meals on a weekly basis with exceptions of closures for private groups or events, seasonal reasons, vacations, general maintenance and remodeling by the owners;

(g) Has special events and weddings inside and outside;

(h) Has at least fifty-five (55) condominiums with at least thirty (30) of the condominiums available for rental on a nightly or weekly basis;

(i) Has a restaurant that possesses a beer permit for on and off-premises consumption;

(j) Does not discriminate against any patron on the basis of age, gender, race, religion, or national origin; and

(k) Is located in a county having a population of not less than forty thousand seven hundred (40,700) nor more than forty thousand eight hundred (40,800), according to the 2010 federal census or any subsequent federal census;

(ii) The facility licensed pursuant to this subdivision (27)(QQQ) shall make food available at any time when alcoholic beverages are being served.

(iii) When used in this subdivision (27)(QQQ), "facility" means any location within the property as designated by the licensee;

(RRR) A commercially operated marina, restaurant, and recreational facility possessing all of the following characteristics:

(i) Is located on at least thirty-two (32) acres of land located off Old Awalt Road;

(ii) Has a marina with at least two hundred fifty (250) wet slips located on Tims Ford Lake;

(iii) Has a restaurant with a dining room to accommodate at least two hundred (200) patrons;

(iv) Includes at least five (5) rental cabins and a motel with at least (5) rental units on its grounds; and

(v) Has a fuel dock with a stationary tank that holds at least six thousand gallons (6,000 gals.) of fuel;

(SSS) A commercially operated mountaintop resort and recreational facility possessing all of the following characteristics:

(i) Is located on at least one thousand two hundred (1,200) acres at an altitude of between two thousand five hundred feet (2,500′) and three thousand feet (3,000′);

(ii) Provides nightly lodging in at least eleven (11) furnished suites with balconies, all of which are located in at least two (2) buildings;

(iii) Has a restaurant with a full service kitchen with combined seating indoors and outdoors for at least one hundred (100) patrons; and which serves at least twelve (12) meals on a weekly basis with exceptions of closures for private groups or events; and seasonal closures, vacations, general maintenance and remodeling by the owners; provided, however, that food shall be made available at any time when alcoholic beverages are being served; and such restaurant shall already possess a beer permit for on-premises consumption;

(iv) Hosts special on-site events including weddings, receptions, reunions, corporate meetings, and club or group gatherings;

(v) Has a wooden walkway through chimney rock formations;

(vi) Has a heliport with at least two (2) landing pads;

(vii) When used in this subdivision (27)(SSS), "facility" includes any location within the property as designated by the licensee;

(viii) Does not discriminate against any patron on the basis of age, gender, race, religion, or national origin; and

(ix) Is located in a county having a population of not less than forty thousand seven hundred (40,700) nor more than forty thousand eight hundred (40,800), according to the 2010 census or any subsequent federal census;

(TTT) A commercially owned marina, resort, and recreational facility possessing each of the following characteristics:

(i) Includes a full service marina that includes at least one hundred thirty (130) boat slips with the capacity to have three hundred seventy-

five (375) covered boat slips ranging in size from twenty-four feet (24′) to thirty feet (30′) deep; and which is located opposite the one hundred and thirty-three and one-third R (133.3R) mile marker on the Clinch River on Norris Lake;

(ii) Has a public pump station;

(iii) Has a restaurant with at least one hundred (100) seats both indoors and outdoors which serves at least six (6) meals on a weekly basis, with exceptions of closures for private groups or events, and seasonal closures, vacations, general maintenance, and remodeling by the owners;

(iv) Has a ship store;

(v) Has gas docks;

(vi) Has a marina campground with at least twenty (20) campsites with electric, water, and wastewater connections;

(vii) Does not discriminate against any patron on the basis of age, gender, race, religion, or national origin; and

(viii) The facility is located within a county having a population of not less than thirty-two thousand two hundred (32,200) nor more than thirty-two thousand three hundred (32,300), according to the 2010 federal census or any subsequent federal census. When used in this subdivision (27)(TTT), "facility" includes any location within the property designated by the licensee;

(UUU)(i) A commercially or privately operated facility containing all of the following characteristics:

(a) Is located on Tellico Lake, containing a minimum area of six hundred fifty (650) contiguous acres;

(b) Has an information and sales center;

(c) Has public access walking trails;

(d) Has a championship golf course of at least eighteen (18) holes;

(e) Does not discriminate against any patron on the basis of age, gender, race, religion or national origin; and

(f) Is located within any county having a population of not less than forty-eight thousand five hundred (48,500) nor more than forty-eight thousand six hundred (48,600), according to the 2010 federal census or any subsequent federal census;

(ii) The premises of any facility licensed under this subdivision (27)(UUU) shall mean any or all of the property that constitutes the facility, including, but not limited to, clubhouses, restaurants, gift and pro shops, marinas, swimming pools, tennis courts, golf courses, and paths and road crossings. A licensee shall designate the premises to be licensed by the commission by filing a drawing of the premises and such drawing may be amended by the licensee filing a new drawing;

(VVV) A commercially operated private tennis club possessing all of the following characteristics:

(i) Is located on at least thirteen (13) acres of land located off Racquet Club Way;

(ii) Has at least ten (10) indoor hard tennis courts located indoors;

(iii) Has at least five (5) hard tennis courts and at least twelve (12) clay tennis courts located outdoors; and

(iv) Includes a five thousand square foot (5,000 sq. ft.) club house on its grounds;

(WWW) A commercially operated recreational facility possessing all of the following characteristics:

(i) Has a banquet room that seats not less than seventy-five (75) people;

(ii) Has a semi-private golf course of at least eighteen (18) holes;

(iii) Has a club house, restaurant that serves food, and swimming pool;

(iv) Is located not less than one (1) mile from Interstate 40 and is adjacent to Golf Course Road;

(v) Is located in a county having a population of not less than thirty-five thousand six hundred (35,600) nor more than thirty-five thousand seven hundred (35,700), according to the 2010 federal census or any subsequent federal census;

(XXX) A commercially owned marina, resort and recreational facility possessing each of the following characteristics:

(i) Includes a full service marina that includes at least one hundred (100) covered boat slips, at least thirty-five (35) mooring line buoys, at least five (5) floating home rentals, and offers for rental at least fourteen (14) watercraft of various types including ski-boats, single and double deck pontoons, jet skis, and standup paddle boats; and which is located at Big Creek Mile eight.zero L (8.0L), Whitman Hollow Branch Norris Reservoir;

(ii) Has a restaurant with at least seventy-five (75) seats combined indoors and outdoors, which serves at least ten (10) meals on a weekly basis, with exceptions of closures for private groups or events, and seasonal closures, vacations, general maintenance and remodeling by the owners; provided, however, that food shall be made available at any time that alcoholic beverages are being served;

(iii) Has at least seven (7) campsites;

(iv) Has at least two (2) vacation rental homes;

(v) Does not discriminate against any patron on the basis of age, gender, race, religion, or national origin; and

(vi) Is located in any county having a population of not less than forty thousand seven hundred (40,700) nor more than forty thousand eight hundred (40,800), according to the 2010 federal census or any subsequent federal census;

(YYY) A commercially owned marina, resort and recreational facility possessing each of the following characteristics:

(i) Has a full service marina that includes at least three hundred (300) boat slips and is located on Norris Lake;

(ii) Has a restaurant with at least seventy-two (72) indoor seats and seventy-two (72) outdoor seats, which serves at least ten (10) meals on a weekly basis, with exceptions of closures for private groups or events, and seasonal closures, vacations, general maintenance and remodeling by the owners; provided, however, that food shall be made available at any time that alcoholic beverages are being served;

(iii) Has a motel with at least twenty-four (24) rooms;

(iv) Has at least two (2) vacation rental cabins and at least twenty-three (23) recreational vehicle (RV) slots;

(v) Does not discriminate against any patron on the basis of age, gender, race, religion, or national origin; and

(vi) Is located in any county having a population of not less than forty thousand seven hundred (40,700) nor more than forty thousand eight hundred (40,800), according to the 2010 federal census or any subsequent federal census;

(ZZZ) A commercially operated facility possessing each of the following characteristics:

(i) Has adequate kitchen facilities and a dining area within the facility that has a seating capacity of at least fifty (50);

(ii) Is within four (4) miles of Douglas Lake;

(iii) Is located on the corner of Greenhill Road and Hwy 25-70 within one (1) mile of I-40 at Exit 415; and

(iv) Is located in a county having a population of not less than fifty-one thousand four hundred (51,400) nor more than fifty-one thousand five hundred (51,500), according to the 2010 federal census or any subsequent federal census;

(AAAA)(i) A privately owned resort and recreational facility possessing each of the following characteristics:

(a) Is located off U.S. Highway 421 in any county having a population of not less than eighteen thousand two hundred (18,200) nor more than eighteen thousand three hundred (18,300), according to the 2010 federal census or any subsequent federal census;

(b) Has a semi-private golf course of at least eighteen (18) holes;

(c) Has at least twenty (20) accommodation units;

(d) Has at least two (2) tennis courts;

(e) Has at least one (1) swimming pool;

(f) Has a restaurant that seats at least fifty (50) people; and

(g) Has a meeting facility;

(ii) The premises of any resort and recreational facility licensed under this subdivision (27)(AAAA) shall mean any or all of the property that constitutes the resort and facility, including, but not limited to, clubhouses, restaurants, gift and pro shops, swimming pools, tennis courts, golf courses, and paths and road crossings. A licensee shall designate the premises to be licensed by the commission by filing a drawing of the premises, and such drawing may be amended by the licensee filing a new drawing;

(BBBB) It is lawful for any establishment located in a municipality having a population of not less than six hundred (600) nor more than six hundred ten (610), according to the 2010 federal census or any subsequent federal census, which is located in a county having a population of not less than two hundred sixty-two thousand six hundred (262,600) nor more than two hundred sixty-two thousand seven hundred (262,700), according to the 2010 federal census or any subsequent federal census, that is licensed to serve beer to also serve alcoholic beverages and wine to be consumed on the premises, subject to the further provisions of this chapter other than § 57-4-103;

(CCCC) A commercially owned marina, resort, and recreational facility possessing each of the following characteristics:

(i) Includes a full-service marina that includes at least one hundred fifty (150) boat slips and is located on Norris Lake;

(ii) Has at least eight (8) campsites;

(iii) Has a restaurant with at least eighty (80) seats, which serves at least ten (10) meals on a weekly basis, with exceptions of closures for

private groups or events, and seasonal closures, vacations, general maintenance, and remodeling by the owners; provided, however, that food shall be made available at any time that alcoholic beverages are being served;

(iv) Does not discriminate against any patron on the basis of age, gender, race, religion, or national origin; and

(v) Is located in any county having a population of not less than forty thousand seven hundred (40,700) nor more than forty thousand eight hundred (40,800), according to the 2010 federal census or any subsequent federal census;

(DDDD) A commercially operated facility possessing each of the following characteristics:

(i) Is located within a one thousand foot (1,000′) radius from the intersection of U.S. Highway 41A and University Avenue/Lake O'Donnell Road on property owned by a private institution of higher education, the campus of which is at least ten thousand (10,000) acres;

(ii) Is located in any county having a population of not less than forty-one thousand (41,000) nor more than forty-one thousand one hundred (41,100), according to the 2010 federal census or any subsequent federal census;

(iii) Has prepared and served hot food for on-site dining with indoor seating for at least twenty-five (25) persons for at least twenty-four (24) months; and

(iv) Does not discriminate against any patron on the basis of age, gender, race, religion, or national origin;

(EEEE) An entity that is authorized by the department of environment and conservation to operate a restaurant or other food and beverage service on the premises of a state park;

(FFFF) It is lawful for any establishment located in a municipality having a population of not less than four hundred ninety (490) nor more than four hundred ninety-nine (499), according to the 2010 federal census or any subsequent federal census, which is located in a county having a population of not less than thirty-two thousand two hundred (32,200) nor more than thirty-two thousand three hundred (32,300), according to the 2010 federal census or any subsequent federal census, that is licensed to serve beer to also serve alcoholic beverages and wine to be consumed on the premises, subject to the further provisions of this chapter other than § 57-4-103;

(GGGG) A commercially operated facility possessing each of the following characteristics:

(i) Is located in any county having a metropolitan form of government with a population of more than five hundred thousand (500,000), according to the 2010 federal census or any subsequent federal census;

(ii) Regularly serves meals;

(iii) Contains an adequate and sanitary kitchen;

(iv) Has seating for not less than forty (40) people at tables;

(v) Is located on floatation devices on the Cumberland river in close proximity to a marina; and

(vi) May be seasonally closed;

(HHHH) A commercially operated recreational facility possessing each of the following characteristics:

(i) Is located:

(a) On at least two thousand five hundred (2,500) acres, approximately eight (8) miles from an interstate highway; and

(b) Along a waterway that flows into a river, a portion of which has been designated as a scenic river;

(ii) Has at least twelve (12) cabins and at least three hundred fifty (350) campsites;

(iii) Has a motor cross trail or trails and a horseback riding trail or trails;

(iv) Has a restaurant with seating for at least one hundred (100);

(v) Has a one thousand six hundred square foot (1,600 sq. ft.) stage at an amphitheater that seats approximately two thousand five hundred (2,500); and

(vi) Has least five (5) hotels or motels located near the facility;

(IIII) A commercially operated facility containing all of the following characteristics:

(i) Is located:

(a) On at least twenty-two (22) acres;

(b) Within a county having a population of not less than seventy-two thousand three hundred (72,300) nor more than seventy-two thousand four hundred (72,400), according to the 2010 federal census or any subsequent federal census; and

(c) At least two (2) miles north of the city of Cookeville, Tennessee;

(ii) Has been an LLC corporation since 2013;

(iii) Accommodates overnight lodging for up to fourteen (14) guests;

(iv) Is available for special events for up to five hundred (500) guests, including, but not limited to, weddings, receptions, corporate events, fundraisers, and reunions; and

(v) Has on-site parking for up to two hundred fifty (250) vehicles;

(JJJJ) A commercially operated facility possessing all of the following characteristics:

(i) Is located in a home built in 1892;

(ii) Is located on 3rd Avenue South;

(iii) Has eight thousand square feet (8,000 sq. ft.) of space including an outside courtyard;

(iv) Hosts on-site special events including weddings, receptions, and group gatherings;

(v) Has an adequate and sanitary kitchen; and

(vi) Is located in any county having a population of not less than one hundred eighty-three thousand one hundred (183,100) nor more than one hundred eighty-three thousand two hundred (183,200), according to the 2010 federal census or any subsequent federal census;

(KKKK) A commercially operated facility containing all of the following characteristics:

(i) The facility is located on at least two hundred fifty (250) acres;

(ii) The facility provides camping and additional overnight accommodations;

(iii) The facility serves at least one (1) meal per day in a dining room that seats at least fifty (50) persons; and

(iv) The facility must be located within a commercial district which contains a former state penitentiary that was in operation for a

minimum of fifty (50) years;

(LLLL) A commercially operated facility possessing each of the following characteristics:

(i) Has been in operation as an inn since November 3, 2002;

(ii) Is located within one-half (½) mile of a city park;

(iii) Has a total of eight (8) guest rooms in the main house;

(iv) Has a separate cottage that also houses at least one (1) transient suite, as well as workspaces and storage;

(v) Has at least one (1) kitchen on the premises and offers at least one (1) meal daily;

(vi) Has an open-air, outdoor patio suitable for the accommodation of wedding ceremonies and other events;

(vii) Has been designated historically significant by a county historical commission; and

(viii) Is located in any county having a population of more than five hundred thousand (500,000), according to the 2010 federal census or any subsequent federal census;

(MMMM) A commercially operated facility possessing all of the following characteristics:

(i) Has a restaurant open at least six (6) days a week with seating at tables for at least one hundred (100) persons;

(ii) Is licensed to sell beer;

(iii) Is located in a structure of not less than six thousand square feet (6,000 sq. ft.);

(iv) Is located on Drew Howard Road; and

(v) Is located in any county having a population of not less than fifty-six thousand (56,000) nor more than fifty-six thousand one hundred (56,100), according to the 2010 federal census or any subsequent federal census;

(NNNN) A commercially operated marina, resort, and recreational facility that:

(i) Is located between day markers fifteen (15) and sixteen (16) on Douglas Lake;

(ii) Operates not less than eighty-eight (88) covered slips, one hundred ten (110) open slips, twelve (12) transient slips, and six (6) house boat slips;

(iii) Operates a full-service store offering fuel, live bait and tackle, food, and beverages;

(iv) Is open not less than three hundred sixty-three (363) days per year;

(v) Rents pontoons, fishing boats, and paddle boards;

(vi) Operates a boat ramp that is open year-round;

(vii) Operates a recreational vehicle (RV) campground with not less than seventy (70) RV sites;

(viii) Operates not less than seven (7) rental properties; and

(ix) Is located in a county having a population of not less than fifty-one thousand four hundred (51,400) nor more than fifty-one thousand five hundred (51,500), according to the 2010 federal census or any subsequent federal census;

(OOOO) A commercially operated facility possessing each of the following characteristics:

(i) The facility operates a full service hotel;

(ii) The facility operates a restaurant with not less than thirty-two (32) seats in the dining room, eight (8) seats in the bar, and twenty-eight (28) outdoor seats located under a wrap-around porch;

(iii) The facility operates a nine-hole golf course and a golf lodge;

(iv) The facility serves as a wedding and events venue; and

(v) The facility is located within one (1) mile of Highway 41A and within two (2) miles of Lake O'Donnell in a county with a population of not less than forty-one thousand (41,000) and not more than forty-one thousand one hundred (41,100), according to the 2010 federal census or any subsequent federal census;

(PPPP) A commercially operated facility possessing all of the following characteristics:

(i) Has a restaurant open at least six (6) days a week with seating at tables for at least one hundred (100) persons and with additional seasonal seating on a patio for at least eighty (80) persons;

(ii) Is licensed to sell beer;

(iii) Is located in a structure of not less than two thousand five hundred square feet (2,500 sq. ft.);

(iv) Is located on Peavine Road; and

(v) Is located in any county having a population of not less than fifty-six thousand (56,000) nor more than fifty-six thousand one hundred (56,100), according to the 2010 federal census or any subsequent federal census;

(QQQQ)(i) A commercially operated facility having all of the following characteristics:

(a) The facility has approximately sixty-one thousand square feet (61,000 sq. ft.) of interior space;

(b) The facility is located not more than six thousand feet (6,000′) southwest of a federal interstate highway and not more than two hundred feet (200′) west of a federal highway;

(c) The property that the facility is located on is not less than five hundred seventy-five feet (575′) and not more than six hundred fifteen feet (615′) above sea level;

(d) The facility was originally constructed in 2017;

(e) The facility has one (1) permanent structure containing five (5) stories and includes at least one (1) commercial kitchen, an atrium with a glass ceiling having a height of at least thirty feet (30′) with live trees, and a rooftop deck with table service;

(f) The facility is located in or adjacent to a commercial real estate development containing approximately one hundred (100) specialty stores and eateries, and a movie theater;

(g) The facility is located within one hundred feet (100′) of a commercial bank that is a member of the federal deposit insurance corporation;

(h) The facility is approximately one thousand eight hundred twenty feet (1,820′) to the northeast of Sugartree Creek;

(i) The facility is approximately four hundred seventy feet (470′) to the northwest of the main building of a public high school that was originally constructed before 1939;

(j) The facility is approximately one thousand four hundred fifty feet (1,450′) to the southwest of a public library that was originally

constructed before 2000;

(k) The facility is located within a county with a metropolitan form of government having a population of not less than six hundred thousand (600,000), according to the 2010 federal census or any subsequent federal census; and

(l) The facility must not discriminate against any patron on the basis of age, gender, race, religion, or national origin;

(ii) The premises of any facility licensed under this subdivision (27)(QQQQ) means any or all of the property that constitutes the facility. A licensee shall designate the premises to be licensed by the commission by filing a drawing of the premises, which may be amended by the licensee filing a new drawing;

(RRRR) An agritourism facility possessing all of the following characteristics:

(i) Is located on at least three hundred (300) owned or leased acres;

(ii) Is located within a county having a metropolitan form of government and a population of not less than six hundred thousand (600,000), according to the 2010 federal census or any subsequent federal census;

(iii) Is bounded on one (1) side by at least three-quarters (¾) of a mile of the Cumberland River and on the other side by one-half (½) of a mile of a state scenic highway;

(iv) Has been certified as an organic farm for a period of at least three (3) years prior to the date of the initial application for a license;

(v) Is primarily zoned agricultural and operates an on-farm market on that site in addition to possessing substantial acreage of green space at the date of initial application for a license; and

(vi) Maintains meeting centers for community events;

(SSSS)(i) A commercially operated facility having all of the following characteristics:

(a) The facility is located on approximately six (6) acres of land that is adjacent to two (2) permanent structures which are owned by the same owner of the facility having approximately seventy thousand square feet (70,000 sq. ft.) of retail and office commercial space, and is located no more than three hundred feet (300′) from a federal highway;

(b) The facility has at least one (1) permanent structure with approximately sixty thousand square feet (60,000 sq. ft.) located no more than five hundred feet (500′) from a federal highway and less than two thousand five hundred feet (2,500′) south of a commercial railroad track. The structure is not less than five hundred twenty-five feet (525′) and not more than five hundred seventy-five feet (575′) above sea level. The structure was renovated in 2016 and 2017;

(c) The facility formerly housed a supermarket business that closed in 2012;

(d) The facility is approximately two thousand two hundred feet (2,200′) to the south of a facility that is accredited by the Association of Zoos and Aquariums that is open to the public;

(e) The facility is located no more than seven thousand feet (7,000′) from a railyard of a Class 1 railroad, as defined by the surface transportation board of the United States department of transportation; and

(f) The facility is located in a county with a metropolitan form of government having a population of not less than five hundred thousand (500,000), according to the 2010 federal census or any subsequent federal census;

(ii) The premises of any facility licensed under this subdivision (27)(SSSS) means any or all of the property that constitutes the facility. The licensee shall designate the premises to be licensed by the commission by filing a drawing of the premises, which may be amended by the licensee filing a new drawing. The entire designated premises is covered under one (1) license issued under this subdivision (27)(SSSS). The licensee and any other entity in the facility licensed under chapter 4 of this title may, upon filing notice with the commission, share a common licensed area on the premises of the facility. The commission shall enforce chapter 4 of this title against each licensee on the premises of the facility and shall not cite, penalize, or take any other adverse action against a licensee for any violation committed by another licensee within a common licensed area on the premises of the facility. There is a rebuttable presumption of liability for a specific licensee for any underage sale based on the specific type of glass or the brand on the cup provided to the minor. In the absence of a glass or cup identifying the licensee, the commission may determine which licensee to cite for an underage sale. If the commission is unable to determine which licensee committed a violation after conducting a reasonable investigation, the commission may issue a citation to one (1) or more licensees that share the common licensed area where the violation occurred;

(iii) The licensee and any other licensed entity in the facility that holds a license under this chapter may store beer and alcoholic beverages in a central storage location in the facility. Each licensed entity shall store its inventory of beer and alcoholic beverages in a separately locked cage or other storage area;

(iv) Notwithstanding any provision of chapter 5 of this title to the contrary, the premises of any facility licensed under this subdivision (27)(SSSS) means, for beer permitting purposes, any or all of the property that constitutes the facility. The beer permittee shall designate the premises to be permitted by the local beer board by filing a drawing of the premises, which may be amended by the beer permittee filing a new drawing. The entire designated premises is covered under one beer permit issued under chapter 5 of this title. The beer permittee and any other entity in the facility that holds a beer permit issued by the local beer board may, upon filing notice with the beer board, share a common permitted area on the premises of the facility. The beer board shall enforce chapter 5 of this title against each permittee on the premises of the facility and shall not cite, penalize, or take any other adverse action against a permittee for any violation committed by another permittee within a common permitted area on the premises of the facility. There is a rebuttable presumption of liability for a specific permittee for any underage sale based on the specific type of glass or the brand on the cup provided to the minor. In the absence of a glass or cup identifying the permittee, the beer board may determine which permittee to cite for an underage sale. If the beer board is unable to determine which permittee committed a violation after conducting a reasonable investigation, the beer board may issue a citation to one (1) or more permittees that share

the common permitted area where the violation occurred;

(v) Notwithstanding § 57-3-806(e), the owner of the facility may prohibit or restrict, through its lease or other agreements with other businesses, the on-premise sale of beer or alcoholic beverages by other businesses at the facility;

(vi) Notwithstanding § 57-4-101(n), table service is not required for the service of alcoholic beverages or beer as authorized by this subdivision (27)(SSSS); and

(vii) The facility, landlord, or any licensee shall provide periodic security for the entire licensed premises;

(TTTT)(i) A commercially operated recreational facility, whether open to the public or limited to members and guests of a corporation, limited liability company, or association, or of a development in which it is located, owned, and operated by a corporation, limited liability company, or association, having all of the following characteristics:

(a) The facility is located in or adjacent to a residential real estate development containing between seven hundred (700) and eight hundred (800) acres, a portion of which was formerly the home of a music industry entertainer who began her career with a successful recording at the age of thirteen (13);

(b) The facility has at least one (1) permanent structure, open to the public or to members and their guests, having at least two thousand square feet (2,000 sq. ft.);

(c) The closest boundary of the real estate development in which the facility is located must be located no more than three thousand feet (3,000′) from the right-of-way of Interstate 840 and situated between Cox and Patton roads;

(d) The facility maintains a golf course having at least eighteen (18) holes, which has a current or past golf professional on staff at the golf course;

(e) The facility has at least one (1) room or rooms that are regularly kept, used, and maintained as a place where meals are regularly served, with adequate and sanitary kitchen facilities and seating at tables for at least thirty (30) persons;

(f) The facility is located on property with elevations that vary between less than seven hundred fifty feet (750′) above sea level to more than nine hundred fifty feet (950′) above sea level;

(g) The facility is located in a county having a population of not less than one hundred eighty-three thousand one hundred (183,100) nor more than one hundred eighty-three thousand two hundred (183,200), according to the 2010 federal census or any subsequent federal census;

(h) The planning commission of a county in which the facility is located has approved of subdividing the property into more than four hundred (400) residential lots that can be offered for sale for home construction; and

(i) The facility does not discriminate against any patron on the basis of age, gender, race, religion, or national origin;

(ii) The premises of any facility licensed under this subdivision (27)(TTTT) shall mean any or all of the property that constitutes the facility, including swimming pools, tennis courts, golf courses, paths,

and road crossings. A licensee shall designate the premises to be licensed by the commission by filing a drawing of the premises, which may be amended by the licensee filing a new drawing;

(UUUU)(i) A commercially operated facility having all of the following characteristics:

(a) The facility is located on approximately twenty-seven (27) acres of land that is adjacent to a tributary of Arrington Creek and located along U.S. Route 96;

(b) The facility has at least one (1) permanent structure constructed in 2016 with at least eight thousand four hundred square feet (8,400 sq. ft.) of climate-controlled space;

(c) The facility is on property that has a lake with an island having approximately nine thousand square feet (9,000 sq. ft.) of space that contains outdoor amenities, including a sound system;

(d) The facility is located in a county having a population of not less than one hundred eighty-three thousand one hundred (183,100) and not more than one hundred eighty-three thousand two hundred (183,200), according to the 2010 federal census or any subsequent federal census; and

(e) The facility does not discriminate against any patron on the basis of age, gender, race, religion, or national origin;

(ii) The premises of any facility licensed under this subdivision (27)(UUUU) means any or all of the property that constitutes the facility, including a barn, man-made island, paths, and road crossings. A licensee shall designate the premises to be licensed by the commission by filing a drawing of the premises, which may be amended by the licensee filing a new drawing;

(VVVV)(i) A commercially operated facility possessing the following characteristics:

(a) The facility is located on at least twenty (20) acres;

(b) The facility provides overnight accommodations with no less than fifty (50) guest rooms;

(c) The facility serves at least one (1) meal per day in a dining room that seats at least seventy-five (75) persons;

(d) The facility is located on property that is within one-quarter (1/4) mile of the intersection of Carters Creek Pike and Southall Road; and

(e) The facility is located in a county having a population of not less than one hundred eighty-three thousand one hundred (183,100) nor more than one hundred eighty-three thousand two hundred (183,200), according to the 2010 federal census or any subsequent federal census;

(ii) The premises of any facility licensed under this subdivision (27)(VVVV) means any or all of the property that constitutes the facility, including restaurants, cabins, lodges, clubhouses, swimming pools, tennis courts, golf courses, paths, and road crossings. A licensee shall designate the premises to be licensed by the commission by filing a drawing of the premises, which may be amended by the licensee filing a new drawing;

(iii) Any facility licensed under this subdivision (27)(VVVV) may be issued one (1) or more licenses for consumption on the premises;

(iv) Any facility licensed under this subdivision (27)(VVVV) may seek an additional license as a caterer under § 57-4-102(6);

(v) Any facility licensed under this subdivision (27)(VVVV) may hold any of the licenses authorized under this subdivision (27)(VVVV) or may grant a franchise to one (1) or more entities for any or all such licenses;

(vi) Any facility licensed under this subdivision (27)(VVVV) may deliver sealed bottles to any area within the licensed premises of the facility;

(WWWW) A commercially operated facility possessing each of the following characteristics:

(i) The facility operates a restaurant with not less than fifty (50) seats in the dining room, not less than six (6) seats at the bar, and outdoor seating on the wrap-around porch;

(ii) The restaurant is equipped to serve breakfast, lunch, and dinner and does so on a regular basis;

(iii) The facility operates an eighteen-hole golf course and has a large, log cabin style clubhouse with not less than seven thousand square feet (7,000 sq. ft.);

(iv) The facility serves as a wedding and event venue; and

(v) The facility is located not more than six (6) miles from Interstate 40 and Interstate 840 and is situated in a county having a population of not less than one hundred thirteen thousand nine hundred (113,900) and not more than one hundred fourteen thousand (114,000), according to the 2010 federal census and any subsequent federal census;

(XXXX) A facility operated either commercially or on a nonprofit basis that:

(i) Is a community theatre and event center that officially opened in 1934;

(ii) Was renovated and reopened in 1974;

(iii) As of April 12, 2018, operates as a 501(c)(3) nonprofit organization;

(iv) Is a historic community and private event venue; and

(v) Is located in a municipality with a population of not less than fifteen thousand sixty (15,060) and not more than fifteen thousand sixty-nine (15,069), according to the 2010 and any subsequent federal census;

(YYYY) A commercially operated facility that is:

(i) Located on approximately two hundred forty-seven (247) acres, subject to a conservation easement on approximately two hundred (200) of the acres;

(ii) Located on a peninsula adjacent to the Tennessee River;

(iii) Located on property across which an abandoned railroad bed lies;

(iv) A venue for weddings, meetings, and events; and

(v) Located in a county with a population of not less than one hundred twenty-three thousand one (123,001) nor more than one hundred twenty-three thousand one hundred (123,100), according to the 2010 or any subsequent federal census;

(ZZZZ) A commercially operated facility that:

(i) Is located on at least sixty (60) acres of land which came from an original land grant with a home on the property built in 1781;

(ii) Has a stream with a dam on the premises;

(iii) Has a restaurant that was primarily built from two wrecked barns, that serves a full menu of hot foods at least four (4) days per week, that possesses a full service kitchen, that has seating inside for at least sixty (60) persons at tables, and that has outdoor patio seats for at least twenty-five (25) persons;

(iv) Has a pavilion that seats at least one hundred twenty-five (125) persons;

(v) Hosts various events, including, but not limited to, weddings, civic and other club meetings, church groups, and car shows; and

(vi) Is located in a county with a population of not less than fifty-six thousand eight hundred (56,800) and not more than fifty-six thousand nine hundred (56,900), according to the 2010 or any subsequent federal census;

(AAAAA) A commercially operated facility that:

(i) Is located on approximately fifty-five (55) to seventy-five (75) acres;

(ii) Is located on the banks of the Powell River;

(iii) Has a restaurant that serves a full menu of hot foods at least four (4) days per week, that possesses a full service kitchen which includes at least a stove top, an oven, a refrigerator, and a freezer, that has at least three thousand five hundred square feet (3,500 sq. ft.) inside, that has an outdoor deck of at least one thousand five hundred square feet (1,500 sq. ft.), that has seating inside for at least eighty (80) persons at tables, and that has outside deck seating for at least eighty (80) persons at tables;

(iv) Possesses a beer license;

(v) Makes available kayaks and tubes for rent for floating on the Powell River; and

(vi) Is located in a county with a population of not less than thirty-two thousand two hundred (32,200) and not more than thirty-two thousand three hundred (32,300), according to the 2010 or any subsequent federal census;

(BBBBB)(i) A commercially operated facility that:

(a) Is located on at least one-half (½) acre of land with at least one hundred sixty feet (160′) of road frontage and is in a building with a convenience store with separate entrances;

(b) Has a restaurant with a license to serve beer, and which serves a full menu of hot foods at least five (5) days per week, except for seasonal closings and renovations, and possesses a full-service kitchen with seating in the main dining area for at least fifty (50) persons at tables, a bar seating area of at least forty (40) persons at the bar and tables, an outdoor patio area with seats and picnic tables for at least forty (40) persons, an outdoor tiki bar with seating for at least eight (8) persons at the bar, and a covered porch off the bar area with at least eight (8) seats, and which hosts live music on a regular weekly basis;

(c) Has an enclosed recreational and events building, with its own entrances, including garage doors, of at least two thousand three hundred square feet (2,300 sq. ft.), which is fully plumbed and in which pool, darts, and corn hole are played, and which hosts various private events and ticketed public events with an admission fee; and

(d) Is located in a county with a population of not less than thirty-two thousand two hundred (32,200) nor more than thirty-two thousand three hundred (32,300), according to the 2010 or any subsequent federal census;

(ii) The premises of any facility licensed under this subdivision (27)(BBBBB) means any and all of the property that constitutes the facility. A licensee shall designate the premises to be licensed by the commission by filing a drawing of the premises, which may be amended by the licensee filing a new drawing;

(CCCCC)(i) A commercially operated facility that:

(a) Is located on at least one hundred seventy-five (175) acres of land that is situated on Pennington Bend adjacent to the Cumberland River;

(b) Serves as a venue for weddings, meetings, tournaments, and events;

(c) Includes an 18-hole golf course, a clubhouse with a restaurant that serves lunch and dinner with seating for at least sixty (60) guests, a golf shop, locker rooms, a covered outdoor pavilion with seating for at least two hundred (200) guests, and meeting rooms;

(d) Is located less than one (1) mile from a hotel containing at least two thousand eight hundred (2,800) rooms, six hundred forty thousand (640,000) square feet of meeting space, and nine (9) acres of indoor gardens;

(e) Is located in a county with a metropolitan form of government having a population of not less than five hundred thousand (500,000), according to the 2010 federal census or any subsequent federal census; and

(f) Does not discriminate against any patron on the basis of age, gender, race, religion, or national origin;

(ii) The premises of any facility licensed under this subdivision (27)(CCCCC) means any or all of the property that constitutes the facility. The licensee shall designate the premises to be licensed by the commission by filing a drawing of the premises, which may be amended by the licensee filing a new drawing. The entire designated premises is covered under one (1) license issued under this subdivision (27)(CCCCC); and

(iii) Notwithstanding any provision of chapter 5 of this title to the contrary, the premises of any facility licensed under this subdivision (27)(CCCCC) means, for beer permitting purposes, any or all of the property that constitutes the facility. The beer permittee shall designate the premises to be permitted by the local beer board by filing a drawing of the premises, which may be amended by the beer permittee filing a new drawing. The entire designated premises is covered under one (1) beer permit issued under chapter 5 of this title;

(DDDDD)(i) A commercially operated facility having all of the following characteristics:

(a) The facility is located on approximately three hundred and sixty (360) acres of land that is adjacent to a reservoir of the Tennessee River created by Watts Bar Dam;

(b) The facility is located less than two (2) miles west of an area designated as a wildlife management area by the Tennessee fish and

wildlife commission that is open to the public;

(c) The facility is located within five (5) miles of Highway 72 in a county with a population of not less than fifty-four thousand one hundred (54,100) and not more than fifty-four thousand two hundred (54,200), according to the 2010 federal census or any subsequent federal census;

(d) The facility is approximately twelve thousand feet (12,000′) southeast of a private airport identified by the federal aviation administration;

(e) The property that the facility is located on is not less than seven hundred twenty-five feet (725′) above sea level nor more than one thousand feet (1000′) above sea level;

(f) The facility includes a restaurant, day spa, tennis courts, barn, farmhouse, fish pond, boat dock, hiking trails, cottages, and a full service inn, with at least twenty (20) rooms for lodging;

(g) The facility serves as a venue for weddings, meetings, conferences, and events; and

(h) The restaurant at the facility serves breakfast and dinner and caters for events, with seating for at least two hundred (200) guests;

(ii) The premises of any facility licensed under this subdivision (27)(DDDDD) means any or all of the property that constitutes the facility. The licensee shall designate the premises to be licensed by the commission by filing a drawing of the premises, which may be amended by the licensee filing a new drawing. The entire designated premises is covered under one (1) license issued under this subdivision (27)(DDDDD);

(iii) Notwithstanding any provision of chapter 5 of this title to the contrary, the premises of any facility licensed under this subdivision (27)(DDDDD) means for beer permitting purposes any or all of the property that constitutes the facility. The beer permittee shall designate the premises to be permitted by the local beer board by filing a drawing of the premises, which may be amended by the beer permittee filing a new drawing. The entire designated premises is covered under one (1) beer permit issued under chapter 5 of this title; and

(iv) The requirements of § 57-5-105(b)(1) do not apply to any facility licensed under this subdivision (27)(DDDDD);

(EEEEE) A commercially operated facility having the following characteristics:

(i) The facility was built in 1894 and has been restored to represent its original features;

(ii) The facility has a seating capacity for approximately one hundred (100) persons;

(iii) The facility is a venue for weddings, receptions, reunions, and other similar events, and opened for business in January of 2017; and

(iv) The facility is located in a county with a population of not less than fifty-two thousand seven hundred (52,700) and not more than fifty-two thousand eight hundred (52,800), according to the 2010 or any subsequent federal census;

(FFFFF) A commercially operated facility possessing each of the following characteristics:

(i) The facility is a restaurant floating on Tims Ford Lake at a

commercially operated marina on Sail Away Lane;

(ii) The facility is accessible by both water and land, with docking areas for watercraft and parking areas for vehicles;

(iii) The facility is licensed to sell beer; and

(iv) The facility is located in a county having a population of not less than forty-one thousand (41,000) and not more than forty-one thousand one hundred (41,100), according to the 2010 or any subsequent federal census;

(GGGGG)(i) A commercially operated recreational facility, whether operated by a corporation, limited liability company, or association, having all of the following characteristics:

(a) The facility is located on Cordell Hull Lake on property leased from the United States army corps of engineers;

(b) The facility has at least one hundred twenty (120) boat slips ranging in size up to sixty feet (60′) in length;

(c) The facility includes a full-service restaurant open to the public;

(d) The facility maintains at least four (4) two-bedroom cabins and at least four (4) hotel rooms available for rent to the public;

(e) The facility operates a full-service campground with at least twenty (20) campsites with septic, electric, and potable water hook-ups;

(f) The facility is located within a county having a population of not less than eleven thousand six hundred (11,600) nor more than eleven thousand seven hundred (11,700), according to the 2010 federal census or any subsequent federal census; and

(g) The facility does not discriminate against any patron on the basis of age, gender, sexual orientation, race, religion, or national origin;

(ii) The premises of any facility licensed under this subdivision (27)(GGGGG) includes all of the property constituting the facility. A licensee shall designate the premises to be licensed by the commission by filing a drawing of the premises, which may be amended by the licensee filing a new drawing;

(HHHHH)(i) A commercially operated facility that:

(a) Has a full-service restaurant that stands alone, or is part of a larger building or complex, but has its own entrance;

(b) Has a full-service kitchen that possesses at least one (1) of each the following: a stove; an oven; a refrigerator; and a freezer;

(c) Is open at least five (5) days per week, and serves at least twelve (12) meals each week;

(d) Has seating for at least seventy-five (75) persons at tables and has seating in the bar area at the bar, on stools around tables, or chairs around tables;

(e) Is located on at least eighteen (18) acres; and

(f) Is located in a county having a population of not less than thirty-two thousand two hundred (32,200) and not more than thirty-two thousand three hundred (32,300), according to the 2010 federal census or any subsequent federal census;

(ii) The premises of any facility licensed under this subdivision (27)(HHHHH) means any or all of the property that constitutes the facility; and

(iii) The property described under this subdivision (27)(HHHHH) may be divided into individual parcels or groups of parcels, and any commercial facility located on any of these parcels that meets the criteria in this subdivision (27)(HHHHH) is deemed to be a premier type tourist resort for purposes of obtaining a license;

(IIIII) A commercially operated facility possessing each of the following characteristics:

(i) The facility is located within six and one-half (6.5) miles of Interstate 24 in any county having a population of not less than thirteen thousand seven hundred (13,700) nor more than thirteen thousand seven hundred fifty (13,750), according to the 2010 federal census or any subsequent federal census;

(ii) The facility is located on Charlie Roberts Road;

(iii) The facility is licensed to sell beer; and

(iv) The facility is a music, concert, and entertainment venue located in a cave that is home to a public television program;

(JJJJJ) A commercially operated restaurant that:

(i) Was built in 1892;

(ii) Has not less than one thousand two hundred ninety-five square feet (1,295 sq. ft.);

(iii) Has seating for not less than thirty-two (32) persons;

(iv) Is located not more than five hundred feet (500′) from Dobbins Branch; and

(v) Is located in a county with not less than one hundred eighty-three thousand one hundred (183,100) and not more than one hundred eighty-three thousand two hundred (183,200), according to the 2010 or any subsequent federal census;

(KKKKK) A commercially operated facility that:

(i) Was built in 1977;

(ii) Operates a market and country store;

(iii) Is located on approximately three and one-half (3 ½) acres;

(iv) Is located not more than three thousand feet (3,000′) from the junction of the Harpeth River and Wilkie Branch;

(v) Serves prepared food on the premises; and

(vi) Is located in a county with not less than one hundred eighty-three thousand one hundred (183,100) and not more than one hundred eighty-three thousand two hundred (183,200), according to the 2010 or any subsequent federal census;

(LLLLL) A commercially operated facility that:

(i) Operates as a community performing arts and civics center in a city with a population of not less than eighteen thousand six hundred fifty (18,650) and not more than eighteen thousand six hundred fifty-nine (18,659), according to the 2010 or any subsequent federal census;

(ii) Was originally built as a school in 1886;

(iii) Contains an auditorium with a full stage, a proscenium arch, and seating for not less than four hundred (400) persons; and

(iv) Contains conference and meeting rooms and a local history museum;

(28)(A) "Premises," when:

(i) Referring to an establishment licensed under this chapter;

(ii) Such establishment is located within an historical district which

has been designated as a national historic landmark;

(iii) Such a national historic landmark centers around a public street or right-of-way; and

(iv) Such a public street or right-of-way is closed to motor vehicular traffic on a regular basis;

includes the area encompassed by the boundaries of the historic district; provided, that the granting of a license for a business location within such historical district shall not preclude the granting of another license to another establishment located within the boundaries of the historic district. This subdivision (28) applies only to counties with a population of more than four hundred thousand (400,000), according to the 1980 census, but those counties having a metropolitan form of government shall be exempt from this subdivision (28). In such county, only for the purposes of the hours of sale provided in § 57-4-203(d)(4), "premises" also includes any establishment located within four (4) blocks west of the western boundary of the historic district and on the same public street or right of way as the historic district; provided, that the requirement of closing the street or right-of-way to motor vehicular traffic on a regular basis shall not apply to the extension of the premises established by this sentence;

(B)(i) "Premises," when:

(a) Referring to an establishment licensed under this chapter;

(b) Such establishment is located within a central improvement district; and

(c) The central improvement district is located in a county having a metropolitan government that has a population in excess of five hundred thousand (500,000), according to the 2010 federal census or any subsequent federal census;

includes only the area located between a convention center, its designated convention center hotel, and a museum that is attached to the convention center hotel; and the one (1) block of public roadway on Fifth Avenue between Demonbreun Street and Korean Veterans Boulevard; and

(ii) This subdivision (28)(B) shall only be effective in any county upon the adoption of a resolution by a majority vote of the local legislative body approving the use of this definition of "premises";

(C) "Premises," when:

(i) Referring to one (1) or more establishments licensed under this chapter; and

(ii) Such establishments are located:

(a) Within a home rule municipality in a county with a population of not less than three hundred thirty-six thousand four hundred (336,400) and not more than three hundred thirty-six thousand five hundred (336,500), according to the 2010 federal census or any subsequent federal census; and

(b) Within or adjacent to an area that is a five hundred seventy-five foot (575′) paver lined street with a right of way that is approximately forty feet (40′) wide extending from Market Street on the western boundary to Rossville Avenue on the eastern boundary; that is bordered along its northern boundary by a historic railroad terminal station that has been listed on the National Register of Historic Places since 1974; and that is bordered along its northern boundary by property zoned for urban-industrial mixed use and along its southern

boundary by property that is zoned for urban-commercial mixed use; includes the area described in subdivision (28)(C)(ii)(*b*). The granting of a license for a business located within or adjacent to the boundaries of the area described in subdivision (28)(C)(ii)(*b*) does not preclude the granting of another license to another establishment located within or adjacent to such area;

(29) "Public aquarium" means a facility which contains a collection of living aquatic animals whose sole or primary habitat is water and which facility provides for care and housing for public exhibition, and also possesses the following characteristics:

(A) The exhibits containing live aquatic animals for public viewing are housed in a building having at least one hundred thousand square feet (100,000 sq. ft.) of interior space;

(B) The exhibits containing live aquatic animals for public viewing contain a minimum total of five hundred thousand gallons (500,000 gals.) of water as the living environment of the animals; and

(C) The public aquarium is located in a county having a population in excess of two hundred fifty thousand (250,000), according to the 1990 federal census or any subsequent federal census;

(30)(A) "Restaurant" means any public place kept, used, maintained, advertised and held out to the public as a place where meals are served and where meals are actually and regularly served, without sleeping accommodations, such place being provided with adequate and sanitary kitchen and dining room equipment and seating capacity of at least forty (40) people at tables, having employed therein a sufficient number and kind of employees to prepare, cook and serve suitable food for its guests. An establishment shall be eligible for licensure as a restaurant in accordance with this part, if the establishment is open at least three (3) days a week, with the exception of holidays, vacations, periods of redecorating and seasonal closings, and more than fifty percent (50%) of the gross revenue of the restaurant is generated from the serving of meals. As used in this subdivision (30), "seasonal closing" means the period from November 1 to March 1 or a period of time, if different from such dates, as filed by the restaurant with the alcoholic beverage commission;

(B) "Restaurant" also means any bowling center that was licensed as of January 1, 1983, to sell alcoholic beverages for consumption on the premises;

(C)(i) Within a national historical landmark district or urban park center, as defined by this section, restaurant licensees shall not be required to meet any requirements of this section which make food service, maintenance of a kitchen, or a dining room a prerequisite to the issuance of a restaurant permit to serve liquor by the drink. This subdivision (30)(C) applies only to counties with a population of more than four hundred thousand (400,000), according to the 1980 census, but those counties having a metropolitan form of government shall be exempt from this subdivision (30)(C);

(ii) Within a sports authority facility as defined in this section, restaurant licensees shall not be required to meet any of the requirements of subdivision (30)(A) which make food service, maintenance of a kitchen, or a dining room a prerequisite for the issuance of a permit to serve liquor by the drink;

(D) Notwithstanding the minimum seating capacity established in subdivision (30)(A), for the purpose of a permit to serve wine, "restaurant" means any lodge or resort with sleeping accommodations where meals are served that is located on land which is owned by the United States department of the interior, is operated by the national park service or its agents or contractors and is located in a county with a population of not less than forty-one thousand four hundred (41,400) nor more than forty-one thousand five hundred (41,500), according to the 1980 federal census or any subsequent federal census;

(E) "Restaurant" also means a facility located in any municipality having a population in excess of one hundred thousand (100,000), according to the 1990 federal census, or any subsequent federal census, in which coffees, teas, pastries, and other foodstuffs are offered for sale for consumption on the premises, which facility has a seating capacity of at least thirty (30) seats and which facility obtains at least fifty percent (50%) of its annual gross sales from the sale of coffees, teas and pastries. Any restaurant licensed under this subdivision (30)(E) shall be authorized to sell alcoholic beverages for consumption on the premises only when such beverages are mixed with coffees, teas and other beverages. A restaurant licensed under this subdivision (30)(E) need not meet the requirement of subdivision (30)(A);

(F) "Restaurant" also means a facility:

(i) Located within one-half (½) mile of the railroad tracks in the unincorporated area of any county having a population of not less than thirty thousand two hundred (30,200) nor more than thirty thousand four hundred seventy-five (30,475), according to the 1990 federal census or any subsequent federal census;

(ii) Whose primary source of income is from serving meals to its patrons, both indoors and out-of-doors, and has a total seating capacity of at least seventy-five (75) people at tables;

(iii) Located in a building having a total square footage of at least two thousand five hundred square feet (2,500 sq. ft.) which was constructed prior to 1925; and

(iv) Which is located on a site used during the Civil War or within two (2) miles of two (2) or more Civil War sites, or is within one and one-half (1 ½) miles of a home that was built in 1884, and which is preserved as the area's best example of the Queen Anne and Eastlake architectural styles;

(G) "Restaurant" also means a facility:

(i) Located on Highway 243 in a county having a population of not less than sixty-nine thousand four hundred (69,400) nor more than sixty-nine thousand five hundred (69,500), according to the 2000 federal census or any subsequent federal census;

(ii) That has seating for not more than one hundred forty (140) people;

(iii) That has a music and entertainment orientation;

(iv) Whose primary source of income is derived from serving meals to its patrons;

(v) That has a historic working original malt and soda fountain;

(vi) That is located in a historical structure formerly used as a town hall as well as a practice venue for Grand Ole Opry hopefuls; and

(vii) That does not discriminate against any patron on the basis of age, gender, race, religion or origin;

(H)(i) Restaurant also means a facility that:

(a) Is owned, operated or leased by a for-profit organization organized under the laws of this state;

(b) Does not discriminate against any patron on the basis of gender, race, religion or national origin;

(c) Provides food service to the public or for private events and catering with seating capacity for at least two hundred fifty (250) persons at tables, whether or not the seating is inside or on a deck or patio;

(d) Is open at least five (5) days a week serving two (2) meals daily with the exception of holidays, vacations, seasonal conditions and periods of redecorating, with suitable kitchen, dining facilities and equipment;

(e) Is in the center of a full service marina and resort located on the Tennessee River at mile marker 477.5; which full service marina has at least six hundred (600) dry storage slips and wet slips up to eighty feet (80′) that offers two (2) cabins completely furnished and an inn with twelve (12) rooms that overlooks the Tennessee River; and

(f) Is located in any county having a population of not less than three hundred seven thousand eight hundred (307,800) nor more than three hundred seven thousand nine hundred (307,900), according to the 2000 federal census or any subsequent federal census;

(ii) A restaurant under this subdivision (30)(H) must comply with all the requirements of this chapter and shall be subject to the restrictions imposed upon licenses other than § 57-4-103;

(I) "Restaurant" also means a facility:

(i) Located on State Route 46, Old Hillsboro Road, in any county having a population of not less than one hundred twenty-six thousand six hundred (126,600) nor more than one hundred twenty-six thousand seven hundred (126,700), according to the 2000 federal census or any subsequent federal census;

(ii) Which is located 1.66 miles from the Natchez Trace Parkway Exit off of Pinewood Road;

(iii) Whose primary source of income is from serving meals to its patrons;

(iv) Which first opened as a restaurant in 1968;

(v) Which does not operate as a grocery store; and

(vi) Which does not discriminate against any patron on the basis of age, gender, race, religion, or national origin;

(J) "Restaurant" also means a facility that:

(i) Is located in a county with a metropolitan form of government having a population of not less than five hundred thousand (500,000), according to the 2010 federal census or any subsequent federal census;

(ii) Is a twenty-four-hour-a-day diner;

(iii) Is located in a central business improvement district as of 2017;

(iv) Serves full meals and has a full-time kitchen staff, twenty-four (24) hours a day;

(v) Holds a valid license from the commission;

(vi) Is located in a separate, unattached building;

(vii) Does not permit live music or entertainment, nor share walls with any establishment offering live music or entertainment; and

(viii) Has six (6) floors and at least seventeen thousand square feet (17,000 sq. ft.); and

(K) "Restaurant" also means a facility that:

(i) Is located in a county with a metropolitan form of government having a population of not less than five hundred thousand (500,000), according to the 2010 federal census or any subsequent federal census;

(ii) Is situated to the east and to the west of the Cumberland River in Pennington Bend;

(iii) Is located approximately two thousand feet (2,000′) to the northwest of a resort and convention center;

(iv) Is a venue for live music;

(v) Has an outdoor deck that is approximately three thousand square feet (3,000 sq. ft.); and

(vi) Operates a restaurant that is approximately eight thousand square feet (8,000 sq. ft.) with a seating capacity of approximately two hundred fifty (250);

(31) "Retirement center" means a facility that contains each of the following characteristics:

(A) The center is located in a county having a population of not less than one hundred twenty-six thousand six hundred (126,600) nor more than one hundred twenty-six thousand seven hundred (126,700), according to the 2000 federal census or any subsequent federal census;

(B) The center is located on a single parcel of land not less than forty eight (48) acres and not more than forty-nine (49) acres in area;

(C) The center will consist of individual living unit apartments, individual living unit villas, an assisted living facility, a nursing home facility, a club house and common areas;

(D) The center will have a club house that houses a health club, game room, lounge and a dining facility;

(E) The center's lounge in the club house will offer to the center's residents and their guests only food, nonalcoholic beverages, mixed alcoholic drinks, wine and beer, as well as make available in the dining facility and other areas within the center's property, for the center's residents and guests only, mixed alcoholic drinks, wine and beer; and

(F) The center does not discriminate against any patron on the basis of gender, race, religion or national origin;

(32) "Special historic district" means any area with specific boundaries that possesses the following characteristics:

(A) Was organized pursuant to a municipal urban planning and development board;

(B) Contains within such special historic district an historic district listed on the national register of historic places;

(C) Is located on a trolley line; and

(D) Is located in any county having a population of eight hundred thousand (800,000) or more, according to the 2000 federal census or any subsequent federal census;

(33)(A) "Special occasion license" means a license which the commission may issue to a bona fide charitable, nonprofit or political organization. Such license shall be issued for no longer than one (1) twenty-four-hour

period, subject to the limitations of hours of sale which may be imposed by law or regulation, and such license may be issued in advance of its effective date;

(B) If a bona fide charitable or nonprofit organization owns and maintains a permanently staffed facility which:

(i) Is used for the periodic showing or exhibition of animals;

(ii) Has a seating capacity of not less than twenty-five thousand (25,000) persons; and

(iii) Has a separate permanently constructed clubhouse or meeting room located on the grounds,

then a special occasion license may be issued for use at the clubhouse or meeting room for the duration of the particular show or exhibit for which application is made, and such organization shall not be subject to the numeric limitation contained in the last sentence of this subdivision (33). This license shall only be available upon the payment of the fee as required by law for each separate day of the show;

(C) Such license shall not be issued unless and until there shall have been paid to the commission for each such license a license fee of one hundred dollars ($100), and there shall have been submitted an application which designates the premises upon which alcoholic beverages shall be served. No such charitable, nonprofit or political organization shall be eligible to receive more than twelve (12) special occasion licenses in any calendar year;

(D) A special occasion license under this section may also be issued to a nonprofit historical society for the purpose of serving complimentary samples of homemade wine manufactured in the Swiss tradition by a society member or members, the complimentary samples not to exceed one ounce (1 oz.) per wine type per person to be served at an annual festival conducted by a society celebrating the Swiss heritage at a farm museum in any county having a population of not less than fourteen thousand three hundred (14,300) nor more than fourteen thousand four hundred (14,400), according to the 2000 federal census or any subsequent federal census;

(E) Any entity holding a special occasion license issued under this subdivision (33) or members of the licensee may transport wine and other alcoholic beverages to the location for which the special occasion license is issued;

(F) "Special occasion license" also means a license, issued by the commission, to a bona-fide charitable organization, recognized as exempt from taxation by the internal revenue service pursuant to § 501(c)(3) of the Internal Revenue Code (26 U.S.C. § 501(c)(3)), which organization has been in continuous operation as a tax-exempt entity for at least twenty (20) years, and which organization has an annual budget of at least one million dollars ($1,000,000). A special occasion license issued pursuant to this subdivision (33)(F) shall be authorized to sell wine in closed containers for consumption on or off the premises notwithstanding the restrictions of § 57-4-203. 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 may donate wine to an organization holding a special occasion license issued pursuant to this subdivision (33)(F) for an event conducted by the special occasion licensee. Any resident of Tennessee may donate wine, which brand of wine has been registered pursuant to § 57-3-301, to an

organization holding a special occasion license issued pursuant to this subdivision (33)(F) for sale or consumption at an event conducted by the special occasion licensee;

(G) A special occasion license under this section may also be issued to a bona fide charitable organization that benefits charities which support women and children in Middle Tennessee and which:

(i) Holds the event in a county having a population of not less than one hundred twenty-six thousand six hundred (126,600) nor more than one hundred twenty-six thousand seven hundred (126,700), according to the 2000 federal census or any subsequent federal census, on property used as a veterinary clinic located on a six and sixty-five one hundredths (6.65) acre lot that shares a common boundary between a municipality and the unincorporated area of such county;

(ii) Jurisdictions within the boundaries of such county have by referendum adopted both the sale of alcoholic beverages at retail package stores and for consumption on the premises;

(iii) Is a one-day annual event restricted to persons twenty-one (21) years of age or older;

(iv) Holds a grape stomp contest with teams made up of four (4) stompers and one (1) swabbie, who collects the juice created by the stompers in a jar, with the team producing the most juice winning the contest;

(v) Includes numerous food vendors;

(vi) Has wine and spirits tastings; and

(vii) Where alcoholic beverages are served but not sold;

(H) A special occasion license under this section may also be issued to a nonprofit community association for the purpose of serving samples of wine to persons holding a presold ticket for an annual fundraiser, the samples not to exceed two ounces (2 oz.) per wine per person to be served at the annual fundraiser conducted by the community association in any county having a population of not less than one hundred twenty-six thousand six hundred (126,600) nor more than one hundred twenty-six thousand seven hundred (126,700), according to the 2000 federal census or any subsequent federal census. The fundraiser shall be an insured event with at least ten (10) wineries or restaurants participating in the event and food shall be available to attendees;

(34)(A) "Sports authority facility" means a facility possessing the following characteristics:

(i) The facility is owned or operated by a sports authority established under title 7, chapter 67, a public building authority or a governmental entity;

(ii) The facility is designed and used for presentation of professional sporting events and other activities, such as amateur sporting events, recreational activities and entertainment events and activities, and includes retail sales areas and retail food dispensing outlets, including, but not limited to, restaurant areas to accommodate liquor by the drink as well as food patronage;

(iii) A major or minor league professional baseball (American, National or Minor League), football (National Football League), basketball (National Basketball Association) or hockey (National Hockey League) franchise has entered into a long-term agreement to play its home

games in the facility; and

(iv) The facility is located in a municipality or county having a population in excess of five hundred thousand (500,000), according to the 1990 federal census or any subsequent federal census;

(B) "Sports authority facility" also means a facility possessing the following characteristics:

(i) The facility includes a stadium that was constructed in 1997 and that has a seating capacity of twenty thousand (20,000) or more;

(ii) The facility is designed and used for sporting and other municipal events;

(iii) The facility is located in a home rule municipality located in a county with a population of not less than three hundred thirty-six thousand four hundred (336,400) and not more than three hundred thirty-six thousand five hundred (336,500), according to the 2010 federal census or any subsequent federal census; and

(iv) The facility is located not more than one-half (1/2) mile from the Tennessee River;

(C) "Sports authority facility" also means any facility that is designed and used for school-sanctioned public sporting events on a public university campus located in any county with a metropolitan form of government having a population of not less than five hundred thousand (500,000), according to the 2010 federal census or any subsequent federal census;

(D) "Sports authority facility" also means any facility that is designed and used for school-sanctioned public sporting events on a four-year public university campus located in any county having a population of not less than two hundred sixty-two thousand six hundred (262,600) nor more than two hundred sixty-two thousand seven hundred (262,700), according to the 2010 federal census or any subsequent federal census;

(35) "Suite" means any room or group of rooms, leased by the operator of a sports authority facility or a convention center, physically located within such facility or center, where access to such room or rooms is restricted to the lessee or such lessee's guests;

(36) "Tennessee River resort district" means a club, hotel, motel, restaurant or limited service restaurant located within a jurisdiction that has elected Tennessee River resort district status pursuant to § 67-6-103(a)(3)(F); provided, that for the purposes of this chapter, such district shall only extend inland for three (3) miles from the nearest bank of the Tennessee River. No entity licensed to sell alcoholic beverages within the boundaries of any such resort district shall discriminate against any patron on the basis of age, gender, race, religion, or national origin;

(37) "Terminal building of a commercial air carrier airport" means a building, including any concourses thereof, used by commercial airlines and their customers for sale of airline tickets, enplaning and deplaning of airline passengers, loading and unloading of baggage and cargo, and for providing other related services for the convenience of airline passengers and others, located in any airport which is served by one (1) or more commercial airlines, and:

(A) Is operated by a board of commissioners whose membership is appointed by the legislative bodies of five (5) or more local governments or whose membership is appointed pursuant to § 42-4-105; or

(B) Is located in a municipality where this chapter has become effective

in that municipality;

(38)(A) "Theater" means any establishment in which motion pictures are exhibited to the public regularly for a charge. Such theater shall have an area that is enclosed by glass and which is accessed through a set of double doors by patrons who must be twenty-one (21) years of age or older to enter. Such theater shall be part of a retail and entertainment complex located one (1) block from a historical district that has been designated as a national historic landmark that centers around a public street or right-of-way. Such theater shall be located in a county having a population of eight hundred thousand (800,000) or more, according to the 1990 federal census or any subsequent federal census;

(B) "Theater" also means any establishment in which motion pictures are exhibited to the public regularly for a charge and which possesses the following characteristics:

(i) Is a twelve (12) auditorium theater that is one hundred percent (100%) digital;

(ii) Is certified by the United States Green Building Council as the nation's first stand-alone theater boasting energy and environmental sensitive design;

(iii) Has one (1) auditorium restricted to patrons twenty-one (21) years of age or older; and

(iv) Is located downtown near a river in a county having a population of not less than three hundred seven thousand eight hundred (307,800) nor more than three hundred seven thousand nine hundred (307,900), according to the 2000 federal census or any subsequent federal census;

(C) "Theater" also means an establishment in which motion pictures are exhibited to the public regularly for a charge. The theater shall have a local beer permit for on-premises consumption. The theater shall regularly serve prepared food to patrons and each auditorium in which alcoholic beverages may be consumed shall allow dining at each seat in the auditorium. Prior to making a sale of any alcoholic beverage, a valid, government-issued document, such as a driver license or other form of identification deemed acceptable to the license holder that includes a photograph and date of birth of the adult consumer attempting to make the purchase, shall be produced to the licensee. The theater shall also periodically visually monitor all auditoriums in which alcoholic beverages are permitted and each beverage containing an alcoholic beverage shall be distinct from any other container used to serve nonalcoholic beverages;

(39)(A) "Urban park center" means a facility or designated area possessing the following characteristics:

(i) The center is owned, operated, or leased by a municipal or county government, or any agency or commission thereof;

(ii) The center is designed to contain outdoor recreational facilities, public museum buildings, exhibition buildings, retail sales areas, retail food dispensing outlets including, but not limited to, sale of package alcoholic and malt beverages, and restaurant areas to accommodate liquor-by-the-drink as well as food patronage; and

(iii) The center is located in a municipality or county having a population in excess of six hundred thousand (600,000), according to the 1970 federal census or any subsequent census;

(B)(i) "Urban park center" also means an outdoor fixed structure amphitheater utilized as a performance venue, containing fixed seating for at least five thousand one hundred (5,100) persons. Such facility or designated area shall be secured by adequate perimeter fencing.

(ii) This subdivision (39)(B) applies in any county with a metropolitan form of government with a population of not less than five hundred thousand (500,000), according to the 1990 federal census or any subsequent federal census;

(C) "Urban park center" also means a facility or designated area that possesses the following characteristics:

(i) Consists of at least two (2) theater spaces in which live theater, concerts, and films are presented;

(ii) Contains at least ten thousand square feet (10,000 sq. ft.);

(iii) Contains permanent fixed seating for at least three hundred forty-nine (349) persons;

(iv) Contains one (1) performance space constructed prior to 1930 that contains a stage with a fly tower for stage rigging with a height of at least thirty feet (30′);

(v) Is operated by a not-for-profit corporation that qualifies as tax exempt under the Internal Revenue Code, § 501(c)(3) (26 U.S.C. § 501(c)(3)), and such facility or designated area is not a religious organization or a secondary or elementary school;

(vi) A major street is located not more than one hundred feet (100′) from the nearest exterior wall of such facility or designated area; and

(vii) Is located within the jurisdictional limits of a county with a metropolitan form of government having a population of not less than five hundred thousand (500,000), according to the 1990 federal census or any subsequent federal census;

(D) "Urban park center" also includes a facility or designated area possessing each of the following characteristics:

(i) Is owned, operated or leased by a municipal or county government, or any agency or commission thereof;

(ii) Has an outdoor fixed structure amphitheater utilized as a performance venue;

(iii) Provides or leases facilities for concerts, plays and programs of cultural, civic and educational interest; and

(iv) Is located in any municipality that has authorized the sale of alcoholic beverages for consumption on the premises, in a referendum in the manner prescribed by § 57-3-106, and the municipality has a population of not less than twenty-three thousand nine hundred twenty (23,920), nor more than twenty-three thousand nine hundred thirty (23,930), according to the 2000 federal census or any subsequent federal census;

(E) "Urban park center" also means a facility or designated area that possesses each of the following characteristics:

(i) Is owned and maintained by a bona fide charitable or nonprofit organization;

(ii) Is used for the periodic showing or exhibition of animals;

(iii) Has a seating capacity of not less than twenty-five thousand (25,000) persons;

(iv) Includes an arena and a permanently constructed clubhouse or

meeting room located on the grounds; and

(v) Is located in any county having a population of not less than forty-five thousand (45,000) nor more than forty-five thousand one hundred (45,100), according to the 2010 federal census or any subsequent federal census;

(F)(i) "Urban park center" also means a facility or designated area possessing each of the following characteristics:

(a) Is located on a tract or tracts of land having at least five (5) contiguous acres;

(b) Is located directly adjacent to property owned or leased by an airport authority created under state law;

(c) Has an enclosed facility or designated area of at least twenty thousand square feet (20,000 sq. ft.) and one (1) room with more than fourteen thousand square feet (14,000 sq. ft.);

(d) Has an exterior garden or gardens with sculpture;

(e) Is leased or owned by a not-for-profit corporation that qualifies under § 501(c)(3) of the Internal Revenue Code; and

(f) Is located within a county having a metropolitan form of government with a population of not less than six hundred thousand (600,000), according to the 2010 federal census or any subsequent federal census;

(ii) An urban park center licensed under this subdivision (39)(F) shall have the privilege of granting a franchise for the provision of food or beverage, including alcoholic beverages, on its premises, and the holder of such franchise shall also be considered an urban park center under this subdivision (39)(F). The premises of an urban park center under this subdivision (39)(F) shall include all enclosed and outdoor areas of the property described in this subdivision (39)(F);

(G) "Urban park center" also includes a facility or designated area possessing each of the following characteristics:

(i) Is located in a building constructed in 1883 that was originally used as a flour mill and eventually became a cannery;

(ii) Is an entertainment complex open to the public with three (3) facilities used for live music performances;

(iii) Serves or sells food to patrons;

(iv) Is approximately fifty-two thousand square feet (52,000 sq. ft.); and

(v) Is located within a county having a metropolitan form of government and a population in excess of five hundred thousand (500,000), according to the 2010 federal census or any subsequent federal census;

(H) "Urban park center" also includes a facility or designated area possessing each of the following characteristics:

(i) Is located approximately two (2) blocks from Interstate 40;

(ii) Is located in a building constructed in the 1920s as an automobile factory;

(iii) Is located in a building remodeled in 2011 as a live music venue open to the public;

(iv) Serves or sells food to patrons; and

(v) Is located within a county having a metropolitan form of government and a population in excess of five hundred thousand (500,000), according to the 2010 federal census or any subsequent federal census;

(I) "Urban park center" also includes a facility or designated area possessing each of the following characteristics:

(i) Is located in the historic Elliston Place neighborhood;

(ii) Is located approximately three (3) blocks from a private university and approximately one (1) block from a nonprofit hospital;

(iii) Serves or sells food to patrons;

(iv) Was opened to the public in 1971 as a live music venue;

(v) Has a stage that is four feet (4′) high and has an indoor balcony; and

(vi) Is located within a county having a metropolitan form of government and a population in excess of five hundred thousand (500,000), according to the 2010 federal census or any subsequent federal census;

(J) "Urban park center" also includes a facility or designated area possessing each of the following characteristics:

(i) Is located on 8th Avenue approximately one (1) block from Interstate 65;

(ii) Is a live music venue that opened to the public in 2001;

(iii) Is located beneath an independent and nationally acclaimed record store;

(iv) Serves or sells food to patrons;

(v) Is approximately one thousand eight hundred square feet (1,800 sq. ft.); and

(vi) Is located within a county having a metropolitan form of government and a population in excess of five hundred thousand (500,000), according to the 2010 federal census or any subsequent federal census;

(K) "Urban park center" also includes a facility or designated area possessing each of the following characteristics:

(i) Is located on Forrest Avenue across from a branch of a public library;

(ii) Is a live music venue that promotes local artists that opened to the public in 2003;

(iii) Serves or sells food to patrons;

(iv) Is approximately two thousand seven hundred square feet (2,700 sq. ft.) and has an enclosed exterior patio; and

(v) Is located within a county having a metropolitan form of government and a population in excess of five hundred thousand (500,000), according to the 2010 federal census or any subsequent federal census;

(L) "Urban park center" also includes a facility or designated area possessing each of the following characteristics:

(i) Is located on First Avenue South;

(ii) Is owned, operated, or leased by a governmental entity;

(iii) Is a facility or designated area designed and used for the presentation of live outdoor music and other events and includes retail sales areas and retail food dispensing outlets, including, but not limited to, restaurant areas to accommodate sales of alcoholic beverages and food; and

(iv) Is located in a county having a metropolitan form of government and a population in excess of five hundred thousand (500,000), according to the 2010 federal census or any subsequent federal census;

(M)(i) "Urban park center" also includes a facility possessing each of the following characteristics:

(a) Is located on a tract or tracts of land having at least fifty (50) contiguous acres;

(b) A state highway is not more than seven hundred fifty feet (750′) from the nearest property line;

(c) A commercial railroad track is not more than seven hundred fifty feet (750′) from the nearest property line;

(d) Is adjacent to a municipal park having over one thousand nine hundred (1,900) acres;

(e) Has an art museum that was originally constructed prior to 1935 as a private residence;

(f) Has exterior gardens with a stream or streams, pools, fountains, and a stone grotto;

(g) Has a woodland sculpture trail that is over one (1) mile in length;

(h) Is leased or owned by a not-for-profit corporation that qualifies as tax exempt under the Internal Revenue Code § 501(c)(3), (26 U.S.C. § 501(c)(3)); and

(i) Is located within a county having a metropolitan form of government and a population of not less than six hundred thousand (600,000), according to the 2010 federal census or any subsequent federal census;

(ii) An urban park center licensed under this subdivision (39)(M) shall have the privilege of granting a franchise pursuant to a written contract for a period of not less than one (1) year for the provision of food or beverage, including alcoholic beverages, on the premises of the urban park center, and the holder of such franchise shall be disclosed to the commission consistent with the disclosures made by the licensee and shall also be considered an urban park center under this subdivision (39)(M). The premises of an urban park center licensed under this subdivision (39)(M) shall include all enclosed and outdoor areas of the property described in this subdivision (39)(M);

(N)(i) "Urban park center" also includes a commercially operated facility having all of the following characteristics:

(a) The facility is located on approximately one and seven-tenths (1.7) acres of land and has approximately thirty-eight thousand one hundred thirty-five square feet (38,135 sq. ft.) of interior space;

(b) The facility is located no more than ten thousand one hundred feet (10,100′) from a federal interstate highway and less than three thousand two hundred feet (3,200′) west of a commercial railroad track. The structure must be not less than two hundred seventy feet (270′) and not more than three hundred feet (300′) above sea level. The structure must have been originally constructed in 2017;

(c) The facility is located on a property that is adjacent to the intersection of Madison Avenue and Cooper Street;

(d) The property that the facility is located on must have previously housed a structure used as a hotel business that was demolished in 2015;

(e) The facility must be approximately one thousand six hundred eighty feet (1,680′) to the south of a public park located on approximately three hundred forty-two (342) acres and that has a zoo that is accredited by the Association of Zoos and Aquariums that is open to

the public;

(f) The facility consists of at least five (5) studio spaces in which live dance is performed, rehearsed, and instructed;

(g) The facility is operated by a not-for-profit corporation that qualifies as tax exempt under § 501(c)(3) of the Internal Revenue Code (26 U.S.C. § 501(c)(3)), and such facility or designated area is not a religious organization or a secondary or elementary school; and

(h) The facility is located in a county with a charter form of government having a population of not less than nine hundred thousand (900,000), according to the 2010 federal census or any subsequent federal census;

(ii) The premises of any facility licensed under this subdivision (39)(N) shall mean any or all of the property that constitutes the facility, including all enclosed and outdoor areas of the property. The licensee shall designate the premises to be licensed by the commission by filing a drawing of the premises, which may be amended by the licensee filing a new drawing. The entire designated premises shall be covered under one (1) license issued under this subdivision (39)(N);

(iii) Notwithstanding chapter 5 of this title to the contrary, the premises of any facility licensed under this subdivision (39)(N) shall mean, for beer permitting purposes, any or all of the property that constitutes the facility, including all enclosed and outdoor areas of the property. The beer permittee shall designate the premises to be permitted by the local beer board by filing a drawing of the premises, which may be amended by the beer permittee filing a new drawing. The entire designated premises shall be covered under one (1) beer permit issued under chapter 5 of this title; and

(iv) An urban park center licensed under this subdivision (39)(N) shall have the privilege of granting a franchise for the provision of food or beverage, including alcoholic beverages, on its premises, and the holder of such franchise shall also be considered an urban park center under this subdivision (39)(N);

(O) "Urban park center" also means:

(i) A commercially operated facility having all of the following characteristics:

(a) The facility is located on land that is between one and one-half (1½) acres and that is adjacent to land owned by the electric power board of a county with a metropolitan form of government;

(b) The facility has at least two (2) permanent structures constructed before 1978 and at least twenty-five thousand square feet (25,000 sq. ft.) of climate controlled space;

(c) The facility formerly housed a custom car design business that had been serving the automotive community since 1968;

(d) The facility is located in a county with a metropolitan form of government having a population of not less than six hundred thousand (600,000), according to the 2010 federal census or any subsequent federal census;

(e) The facility is approximately five thousand ninety feet (5,090′) to the northeast of a federal interstate highway;

(f) The facility is approximately five thousand nine hundred sixty feet (5,960′) to the northwest of a navigable waterway; and

(g) The facility is approximately three hundred fifty feet (350′) to the southwest from the main building of a high school that was originally constructed before 1933;

(ii) The premises of any facility described under this subdivision (39)(O) means any or all of the property that constitutes the facility, including all buildings and outdoor areas between and around those buildings. The licensee shall designate the premises to be licensed by the commission by filing a drawing of the premises, which may be amended by the licensee filing a new drawing. An urban park center, as described in subdivision (39)(O)(i), may grant a franchise to one (1) or more entities authorizing such an entity to provide food or beverages, including alcoholic beverages, on its premises. A franchisee is deemed to be an urban park center under this subdivision (39)(O) and shall apply for and hold a license under this subdivision (39)(O). The commission shall enforce chapter 4 of this title against each franchisee as a licensee under this subdivision (39)(O) and shall not cite, penalize, or take any other adverse action against a franchisee for any violation committed by another franchisee on the licensed premises. There is a rebuttable presumption of liability for a specific franchisee for any underage sale based on the specific type of glass or the brand on the cup provided to the minor. In the absence of a glass or cup identifying the franchisee, the commission may determine which franchisee to cite for an underage sale. If the commission is unable to determine which franchisee committed the violation after conducting a reasonable investigation, the commission may issue a citation to one (1) or more franchisees that share the common space where the violation occurred;

(iii) Notwithstanding any provision of chapter 5 of this title to the contrary, the premises of any facility described under this subdivision (39)(O) means, for the purpose of obtaining a beer permit, any or all of the property that constitutes the facility, including all buildings and outdoor areas between and around those buildings. The beer permittee shall designate the premises to be licensed by the local beer board by filing a drawing of the premises, which may be amended by the beer permittee filing a new drawing. An urban park center, as described in subdivision (39)(O)(i), may grant a franchise to one (1) or more entities authorizing such an entity to provide food or beverages, including beer, on its premises. A franchisee is deemed to be an urban park center under this subdivision (39)(O) and shall apply for and hold a beer permit. The beer board shall enforce chapter 5 of this title against each franchisee as a beer permittee and shall not cite, penalize, or take any other adverse action against a franchisee for any violation committed by another franchisee on the licensed premises. There is a rebuttable presumption of liability for a specific franchisee for any underage sale based on the specific type of glass or the brand on the cup provided to the minor. In the absence of a glass or cup identifying the franchisee, the beer board may determine which franchisee to cite for an underage sale. If the beer board is unable to determine which franchisee committed the violation after conducting a reasonable investigation, the beer board may issue a citation to one (1) or more franchisees that share the common space where the violation occurred; and

(iv) The licensee described in subdivision (39)(O)(i) and any franchisee licensed under this subdivision (39)(O) may store beer and alcoholic

beverages in a central storage location in the facility. Each licensee shall store its inventory of beer and alcoholic beverages in a separately locked cage or other storage area;

(P)(i) "Urban park center" also means a facility or designated area having all of the following characteristics:

(a) The easternmost corner of the structure that houses the facility is approximately one thousand four hundred feet (1,400′) southwest of a public park that is adjacent to a navigable waterway;

(b) The easternmost corner of the structure that houses the facility is approximately one thousand one hundred feet (1,100′) southeast of a public park that is adjacent to a public library constructed in 2001;

(c) The easternmost corner of the structure that houses the facility is approximately five hundred feet (500′) northwest of a public park that contains a walkway recognizing professionals in the music industry;

(d) The easternmost corner of the structure that houses the facility is approximately one thousand five hundred feet (1,500′) southwest of a railway station providing commuter rail service that employs standard gauge locomotives and coaches;

(e) The property that houses the facility is across a public street from a live performance venue that was originally constructed in 1892 as a religious facility;

(f) The property that houses the facility is adjacent to a facility originally constructed in 1925 that houses the Grand Lodge of Free and Accepted Masons of Tennessee;

(g) The facility is located in a mixed used development located at the intersection of a federal highway and a municipal street;

(h) The facility is owned, operated, or leased by a bona fide charitable or nonprofit organization;

(i) The facility occupies no less than fifty thousand square feet (50,000 sq. ft.) of commercial space used as a museum that offers informational and educational programming to the community, features historical exhibits, live and pre-recorded music, and may be utilized for public and private occasions, weddings, community meetings, corporate functions, and other events;

(j) Does not discriminate against any patron on the basis of age, gender, race, religion, or national origin; and

(k) The facility is located in a county with a metropolitan form of government having a population of not less than six hundred thousand (600,000), according to the 2010 federal census or any subsequent federal census;

(ii) The premises of any facility licensed under this subdivision (39)(P) means any or all of the property that constitutes the facility. The licensee shall designate the premises to be licensed by the commission by filing a drawing of the premises, which may be amended by the licensee filing a new drawing;

(iii) Notwithstanding any provision of chapter 5 of this title to the contrary, the premises of any facility licensed under this subdivision (39)(P) means for beer permitting purposes any or all of the property that constitutes the facility. The beer permittee shall designate the premises to be permitted by the local beer board by filing a drawing of the premises, which may be amended by the beer permittee filing a new

drawing; and

(iv) An urban park center licensed under this subdivision (39)(P) shall have the privilege of granting a franchise for the provision of food or beverage, including alcoholic beverages, on its premises, and the holder of the franchise is deemed to be an urban park center under this subdivision (39)(P);

(40) "Wine" means the product of the normal alcoholic fermentation of the juice of fresh, sound, ripe grapes, with the usual cellar treatment and necessary additions to correct defects due to climatic, saccharine and seasonal conditions, including champagne, sparkling and fortified wine of an alcoholic content not to exceed twenty-one percent (21%) by volume. No other product shall be called "wine" unless designated by appropriate prefixes descriptive of the fruit or other product from which the same was predominantly produced, or an artificial or imitation wine; and

(41)(A) "Zoological institution" means a facility which contains a zoological garden or collection of living animals and provides for their care and housing for public exhibition and further possesses the following characteristics:

(i) The zoo is owned, operated, or leased by a municipal or county government;

(ii) The zoo is at least fifty (50) years old; and

(iii) The zoo is located in a county having a population in excess of seven hundred thousand (700,000), according to the 1980 federal census or any subsequent federal census.

(B) "Zoological institution" means a facility that contains a zoological garden or collection of living animals and provides for their care and housing for public exhibition and further possesses the following characteristics:

(i) The zoo is operated on property leased by a county having a metropolitan form of government and has been opened to the public on that property at least since 1997;

(ii) The zoo has been accredited by and maintains the accreditation of the Association of Zoos and Aquariums (AZA); and

(iii) The zoo is located in a county having a metropolitan form of government and a population in excess of five hundred thousand (500,000), according to the 2000 federal census or any subsequent federal census;

(C) "Zoological institution" means a facility that contains a zoological garden or collection of living animals and provides for their care and housing for public exhibition and further possesses the following characteristics:

(i) The zoo is operated on property owned by a city and has been opened to the public on that property at least since 1937;

(ii) The zoo has been accredited by and maintains the accreditation of the Association of Zoos and Aquariums (AZA); and

(iii) The zoo is located in a county having a population of not less than three hundred seven thousand eight hundred (307,800) nor more than three hundred seven thousand nine hundred (307,900), according to the 2000 federal census or any subsequent federal census; and

(D) "Zoological institution" means a facility that contains a zoological garden or collection of living animals and provides for their care and housing for public exhibition and further possesses the following

characteristics:

(i) The zoo is operated on property owned by a city and has been opened to the public on that property at least since 1948;

(ii) The zoo has been accredited by and maintains the accreditation of the Association of Zoos and Aquariums (AZA); and

(iii) The zoo is located in a county having a population of not less than three hundred eighty two thousand (382,000) nor more than three hundred eighty two thousand one hundred (382,100), according to the 2000 federal census or any subsequent federal census.

57-4-103. Applicability of chapter — Referendum — Form of question.

(a)(1) This chapter shall be effective in any jurisdiction which authorizes the sale of alcoholic beverages for consumption on the premises in a referendum in the manner prescribed by § 57-3-106; provided, that, in addition to any other method authorized for holding an election pursuant to § 57-3-106, an election may be held for such sales upon adoption of a resolution by a two-thirds (⅔) vote of the legislative body of a county or municipality.

(2)(A) Except as provided in subdivision (a)(2)(B), if the county election commission receives the necessary resolution or the petition requesting the referendum not less than forty five (45) days before the date on which an election is scheduled to be held, except for referenda scheduled to be held with the regular November general election which shall be held pursuant to § 2-3-204, the county election commission shall include the referendum question contained in subsection (b) on the ballot.

(B) In counties having a population of not less than eight hundred twenty-five thousand (825,000) nor more than eight hundred thirty thousand (830,000), according to the 1990 federal census or any subsequent federal census, if the county election commission receives the necessary petition requesting the referendum not less than thirty (30) days before the date on which an election is scheduled to be held, the county election commission shall include the referendum question contained in subsection (b) on the ballot.

(3) If any county has authorized the sale of alcoholic beverages for sale for consumption off premises pursuant to § 57-3-106, then any municipality wholly or partially within the boundaries of the county may conduct a referendum to authorize the sale of alcoholic beverages for consumption on the premises within the corporate boundaries of the municipality.

(4)(A) If a municipality which has created a tourism development zone as defined in § 7-88-103 has not authorized the sale of alcoholic beverages for consumption on the premises in a referendum, then such municipality is authorized to conduct a referendum to authorize the sale of alcoholic beverages for consumption on the premises within the corporate boundaries of such municipality in accordance with this subdivision (a)(4). Notwithstanding § 57-3-106(c) and (f)(2), the county election commission shall place the question on the ballot of the November 2012, general election; provided, that all costs associated with the referendum election shall be paid for by the municipality to which this subdivision (a)(4) applies.

(B) The question submitted to the voters shall be in the following form

for this election:

For legal sale of alcoholic beverages for consumption on the premises in _____ (here insert name of political subdivision).

Against legal sale alcoholic beverages for consumption on the premises in _____ (here insert name of political subdivision).

(5) When a municipality is located partly within a county that has a metropolitan form of government and the county has approved sales of alcoholic beverages for consumption on the premises and partly within another county that has not approved sales of alcoholic beverages for consumption on the premises, a referendum in the municipality shall be held only in that portion of the municipality located in the county that has not approved sales of alcoholic beverages for consumption on the premises. The referendum result shall not affect the sale of alcoholic beverages for consumption on the premises in the portion of the municipality located in the county having a metropolitan form of government.

(6) If any municipality located in any county having a population of not less than sixty-six thousand two hundred (66,200) nor more than sixty-six thousand three hundred (66,300), according to the 2010 federal census or any subsequent federal census, has authorized the sale of alcoholic beverages for consumption on the premises in a referendum in the manner prescribed by § 57-3-106, then any municipality having a population of not less than eight hundred fifty-five (855) nor more than eight hundred sixty-five (865) located within the boundaries of such county may conduct a referendum to authorize the sale of alcoholic beverages for consumption on the premises within the corporate boundaries of such municipality, notwithstanding the population requirements of § 57-3-101(a)(13) or § 57-3-106(b)(1). The referendum shall be conducted in the manner prescribed by § 57-3-106.

(7) If any municipality located in any county having a population of not less than twenty-nine thousand four hundred (29,400) nor more than twenty-nine thousand five hundred (29,500), according to the 2010 federal census or any subsequent federal census, has authorized the sale of alcoholic beverages for consumption on the premises in a referendum in the manner prescribed by § 57-3-106, then any municipality having a population of not less than five hundred thirty (530) nor more than five hundred thirty-nine (539), according to the 2010 federal census or any subsequent federal census, located within the boundaries of such county, may conduct a referendum to authorize the sale of alcoholic beverages for consumption on the premises within the corporate boundaries of such municipality, notwithstanding the population requirements of § 57-3-101(a)(14) or § 57-3-106(b)(1). The referendum shall be conducted in the manner prescribed by § 57-3-106.

(8) If any municipality located in any county having a population of not less than forty-one thousand eight hundred (41,800) nor more than forty-one thousand nine hundred (41,900), according to the 2010 federal census or any subsequent federal census, has authorized the sale of alcoholic beverages for consumption on the premises in a referendum in the manner prescribed by § 57-3-106, then any municipality having a population of not less than four hundred sixty (460) nor more than four hundred seventy (470), according to the 2010 federal census or any subsequent federal census, located within the

boundaries of such county, may conduct a referendum to authorize the sale of alcoholic beverages for consumption on the premises within the corporate boundaries of such municipality, notwithstanding the population requirements of § 57-3-101(a)(14) or § 57-3-106(b)(1). The referendum must be conducted in the manner prescribed by § 57-3-106.

(9) If any municipality located in any county having a population of not less than sixty-six thousand two hundred (66,200) nor more than sixty-six thousand three hundred (66,300), according to the 2010 federal census or any subsequent federal census, has authorized the sale of alcoholic beverages for consumption on the premises in a referendum in the manner prescribed by § 57-3-106, then any municipality having a population of not less than three hundred ten (310) nor more than three hundred nineteen (319), according to the 2010 federal census or any subsequent federal census, located within the boundaries of such county, may conduct a referendum to authorize the sale of alcoholic beverages for consumption on the premises within the corporate boundaries of such municipality, notwithstanding the population requirements of § 57-3-101(a)(14) or § 57-3-106(b)(1). The referendum must be conducted in the manner prescribed by § 57-3-106.

(b) At any such election, the only question submitted to the voters shall be in the following form:

For legal sale of alcoholic beverages for consumption on the premises in _____ (here insert name of political subdivision).

Against legal sale of alcoholic beverages for consumption on the premises in _____ (here insert name of political subdivision).

57-4-203. Prohibited practices — Hours of sale — Authority of commission — Penalties.

(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(27)(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(28) 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.

(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(30)(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 (34) 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(33)(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.

57-4-306. Distribution of collections.

(a) All gross receipt taxes collected under § 57-4-301(c) shall be distributed by the commissioner of revenue as follows:

(1) Fifty percent (50%) to the general fund to be earmarked for education purposes; and

(2) The other fifty percent (50%) to be distributed to local political subdivisions as follows:

(A) Collections for privileges exercised in an incorporated municipality shall be distributed by the commissioner to the city recorder; and

(B) Collections for privileges exercised in an unincorporated area of the county shall be distributed by the commissioner to the county trustee.

(b)(1) From July 1, 2017, until June 30, 2018, the proceeds received by a local political subdivision pursuant to subdivision (a)(2) shall be distributed by the local political subdivision in the following manner:

(A) One-half (½) of the proceeds shall be distributed as follows:

(i) If the county school system is the only LEA in the county, then to the county trustee for the county school system from the collection of taxes in the county or any city exercising the privilege authorized under § 57-4-301(c);

(ii) If a city exercises the privilege authorized under § 57-4-301(c) and operates a kindergarten through grade twelve (K-12) school system, then the city recorder shall retain the collections for the city school system;

(iii) If a city exercises the privilege authorized under § 57-4-301(c) and operates a city school system that is not a kindergarten through grade twelve (K-12) school system, then to the city recorder:

(a) In the amount the percentage that the 2016-2017 average daily attendance (ADA) of the students in the city school system is to the 2016-2017 ADA of public school students residing in the city who attend either the city school system or the county school system with the remaining amount distributed to the county trustee for the county school system, if the city lies entirely in a single county; or

(b) In the amount the percentage that the 2016-2017 ADA of the students in the city school system is to the 2016-2017 ADA of public school students residing in the city who attend either the city school system or a county school system with the remaining amount divided between the counties based on where the tax was collected and distributed to the county trustees for the county school systems, if the city lies within two (2) or more counties;

(iv) Notwithstanding § 49-3-315, if a city exercises the privilege authorized under § 57-4-301(c), but does not operate a city school system, then to the county trustee for the county school system;

(v) If a special school district lies, in whole or in part, within a city that exercises the privilege authorized under § 57-4-301(c), then to the appropriate official acting for the special school district in the amount the percentage the ADA of public school students residing in the city and attending the special school district is to the total ADA of city public

school students who attend either the special school district or the county school system with any remaining amount distributed to the county trustee for the county school system;

(vi) Notwithstanding § 49-3-315, if a county exercises the privilege authorized under § 57-4-301(c) and one (1) or more city school systems operate within the county, then to the county trustee for the county school system any tax revenues collected outside the boundaries of cities exercising the privilege authorized under § 57-4-301(c) that have city school systems; or

(vii) If a city that lies in two (2) or more counties exercises the privilege authorized under § 57-4-301(c) but does not operate a city school system, then tax revenues collected in the city shall be divided between the counties based on where the tax was collected and distributed to the county trustees for the county school systems; and

(B) The other one-half (½) of the proceeds shall be distributed as follows:

(i) Collections of gross receipts collected in unincorporated areas, to the county general fund; and

(ii) Collections of gross receipts in incorporated cities and towns, to the city or town wherein such tax is collected.

(2) From July 1, 2018, until June 30, 2019, the proceeds received by a local political subdivision pursuant to subdivision (a)(2) shall be distributed by the local political subdivision in the following manner:

(A) One-half (½) of the proceeds shall be distributed as follows:

(i) If the county school system is the only LEA in the county, then to the county trustee for the county school system from the collection of taxes in the county or any city exercising the privilege authorized under § 57-4-301(c);

(ii) If a city exercises the privilege authorized under § 57-4-301(c) and operates a kindergarten through grade twelve (K-12) school system, then the city recorder shall retain the collections for the city school system;

(iii) If a city exercises the privilege authorized under § 57-4-301(c) and operates a city school system that is not a kindergarten through grade twelve (K-12) school system, then to the city recorder:

(a) In the amount the percentage that the 2017-2018 average daily attendance (ADA) of the students in the city school system is to the 2017-2018 ADA of public school students residing in the city who attend either the city school system or the county school system with the remaining amount distributed to the county trustee for the county school system, if the city lies entirely in a single county; or

(b) In the amount the percentage that the 2017-2018 ADA of the students in the city school system is to the 2017-2018 ADA of public school students residing in the city who attend either the city school system or a county school system with the remaining amount divided between the counties based on where the tax was collected and distributed to the county trustees for the county school systems, if the city lies within two (2) or more counties;

(iv) Notwithstanding § 49-3-315, if a city exercises the privilege authorized under § 57-4-301(c), but does not operate a city school system, then to the county trustee for the county school system;

(v) If a special school district lies, in whole or in part, within a city that exercises the privilege authorized under § 57-4-301(c), then to the appropriate official acting for the special school district in the amount the percentage the ADA of public school students residing in the city and attending the special school district is to the total ADA of city public school students who attend either the special school district or the county school system with any remaining amount distributed to the county trustee for the county school system;

(vi) Notwithstanding § 49-3-315, if a county exercises the privilege authorized under § 57-4-301(c) and one (1) or more city school systems operate within the county, then to the county trustee for the county school system any tax revenues collected outside the boundaries of cities exercising the privilege authorized under § 57-4-301(c) that have city school systems; or

(vii) If a city that lies in two (2) or more counties exercises the privilege authorized under § 57-4-301(c) but does not operate a city school system, then tax revenues collected in the city shall be divided between the counties based on where the tax was collected and distributed to the county trustees for the county school systems; and

(B) The other one-half (½) of the proceeds shall be distributed as follows:

(i) Collections of gross receipts collected in unincorporated areas, to the county general fund; and

(ii) Collections of gross receipts in incorporated cities and towns, to the city or town wherein such tax is collected.

(3)(A) As used in subdivision (b)(1), "average daily attendance" or "ADA" means:

(i) If the school system was in operation during the 2016-2017 school year, the aggregate days' attendance of the school system during the 2016-2017 school year divided by the number of days school was in session during the 2016-2017 school year; or

(ii) If the school system was not in operation during the 2016-2017 school year, then the estimated expected attendance of the school system for the 2017-2018 school year as reported to the department of education.

(B) As used in subdivision (b)(2), "average daily attendance" or "ADA" means:

(i) If the school system was in operation during the 2017-2018 school year, the aggregate days' attendance of the school system during the 2017-2018 school year divided by the number of days school was in session during the 2017-2018 school year; or

(ii) If the school system was not in operation during the 2017-2018 school year, then the estimated expected attendance of the school system for the 2018-2019 school year as reported to the department of education.

(c) After July 1, 2019, the proceeds received in each local political subdivision pursuant to subdivision (a)(2) shall be distributed by the local political subdivision in the following manner:

(1) One-half (½) of the proceeds shall be expended and distributed in the same manner as the county property tax for schools is expended and distributed; any proceeds expended and distributed to municipalities which

do not operate their own school systems separate from the county are required to remit one-half (½) of their proceeds of the gross receipts liquor-by-the-drink tax to the county school fund; and

(2) The other one-half (½) of the proceeds shall be distributed as follows:

(A) Collections of gross receipts collected in unincorporated areas, to the county general fund; and

(B) Collections of gross receipts in incorporated cities and towns, to the city or town wherein such tax is collected.

(d) Notwithstanding subdivision (a)(2), the fifty percent (50%) of the gross receipt taxes allocated to local political subdivisions by subdivision (a)(2) and collected in a municipality which is a premier tourist resort shall be distributed to and expended by such municipality for schools in such municipality.

(e) By August 1, 2014, every city or county that exercises the privilege authorized under § 57-4-301(c) shall provide written notice to each school system operating within its jurisdiction. This notice shall contain a statement that the local political subdivision exercises the privilege authorized under § 57-4-301(c), a statement that students within the jurisdiction attend a school or schools operated by the school system, a statement that the school system is authorized to receive a portion of the revenues collected, and a reference to this part. A city or county that, subsequent to July 1, 2014, elects to exercise the privilege authorized under § 57-4-301(c), shall comply with the notice provisions of this subsection (e) within thirty (30) days of the effective date of the referendum.

(f) If the local political subdivision fails to remit the proceeds to the appropriate school fund, system, or systems as required under subsections (b) or (c) as applicable within sixty (60) days of receipt from the commissioner, then the aggrieved local school board shall notify the comptroller of the treasury who shall deliver by certified mail a written notice of such failure to the local political subdivision within five (5) business days of notice of the failure.

(g) In the event the local political subdivision fails to remit the proceeds within thirty (30) days of the receipt of such notice, the comptroller of the treasury shall direct the commissioner to withhold future distributions of proceeds to the local political subdivision authorized under subsections (b) or (c) as applicable until a final determination is made pursuant to subsection (h).

(h) Upon the commissioner withholding distributions of proceeds as authorized under subsection (g), an aggrieved local school board shall have the authority to pursue equitable relief against the local political subdivision in the chancery court; provided, however, that in the event that the state is a party or becomes a party to the suit, then such suit shall be filed or transferred to the chancery court of Davidson County. Upon receipt of a copy of the final judgment of the court, the commissioner shall distribute all withheld proceeds to the local political subdivision, which shall remit such proceeds to the aggrieved party pursuant to the judgment. If the amount of the judgment is not satisfied by the withheld proceeds, then the local political subdivision shall be solely responsible for remitting future proceeds to the aggrieved party pursuant to the judgment.

(i)(1) Subsections (a)-(h) shall not apply in counties having a population, according to the 2010 federal census or any subsequent federal census of:

not less than	nor more than
336,400	336,500
98,900	99,000

In such counties, all gross receipt taxes collected under § 57-4-301(c) shall be distributed by the commissioner of revenue as follows:

(A) Fifty percent (50%) to the general fund to be earmarked for education purposes; and

(B) The other fifty percent (50%) to be distributed to local political subdivisions as follows:

(i) Collections for privileges exercised in an incorporated municipality shall be distributed by the commissioner to the city recorder; and

(ii) Collections for privileges exercised in an unincorporated area of the county shall be distributed by the commissioner to the county trustee.

(2) The proceeds received in each local political subdivision pursuant to subdivision (i)(1)(B) shall be distributed by the local political subdivision in the following manner:

(A) One-half (½) of the proceeds shall be expended and distributed in the same manner as the county property tax for schools is expended and distributed; any proceeds expended and distributed to municipalities which do not operate their own school systems separate from the county are required to remit one-half (½) of their proceeds of the gross receipts liquor-by-the-drink tax to the county school fund; and

(B) The other one-half (½) of the proceeds shall be distributed as follows:

(i) Collections of gross receipts collected in unincorporated areas, to the county general fund; and

(ii) Collections of gross receipts in incorporated cities and towns, to the city or town wherein such tax is collected.

(j) **[Effective on January 1, 2019 and effective until July 1, 2023.]**

(1) Notwithstanding this section to the contrary, fifty percent (50%) of the event revenue from gross receipt taxes collected under § 57-4-301(c) for privileges exercised in an event venue during an event period that would not otherwise be earmarked for educational purposes shall be deposited in the event tourism fund.

(2) One and one hundred twenty-five thousandths percent (1.125%) of funds deposited in the event tourism fund shall be retained by the department of finance and administration to be used for costs associated with administering the fund and this section. The department of finance and administration shall cause to be paid to the department of revenue an amount to offset the department's costs in administering this section.

(3) As used in this subsection (j):

(A) "Event period" has the same meaning as defined in § 67-6-105;

(B) "Event revenue" has the same meaning as defined in § 67-6-105; and

(C) "Event venue" has the same meaning as defined in § 67-6-105.

57-5-103. Permit from county or city required — Classification of counties — Purchases of beer "for resale."

(a)(1) It is unlawful to operate any business engaged in the sale, distribution, manufacture, or storage of beer without a permit issued by the county or city where such business is located under the authority herein delegated to counties and cities.

(2) Permits shall be issued to the owner of the business or other entity responsible for the premises for which the permit is sought, whether a person, firm, corporation, joint-stock company, syndicate, association, or local governmental entity where the governing body has authorized such sales of beer.

(3) A permit shall be valid:

(A) Only for the owner to whom the permit is issued and cannot be transferred to another owner. If the owner is a corporation, a change in ownership shall occur when control of at least fifty percent (50%) of the stock of the corporation is transferred to a new owner;

(B) Only for a single location, except as provided in subdivision (a)(4), and cannot be transferred to another location. A permit shall be valid for all decks, patios and other outdoor serving areas that are contiguous to the exterior of the building in which the business is located and that are operated by the business; and

(C) Only for a business operating under the name identified in the permit application.

(4) Where an owner operates two (2) or more restaurants or other businesses within the same building, the owner may in the owner's discretion operate some or all such businesses pursuant to the same permit.

(5) A business can sell beer for both on-premises and off-premises consumption at the same location pursuant to one (1) permit.

(6) A permit holder must return a permit to the county or city that issued it within fifteen (15) days of termination of the business, change in ownership, relocation of the business or change of the business's name; provided, that notwithstanding the failure to return a beer permit, a permit shall expire on termination of the business, change in ownership, relocation of the business or change of the business's name.

(7) In the case of beer wholesalers, as defined in § 57-6-102, no county or city shall require a permit from a wholesaler unless such wholesaler operates a warehouse in such county or city.

(8) Any person, firm, corporation, joint-stock company, syndicate, or association engaged in the sale, distribution, or manufacture of beer without the permit required by this part commits a Class A misdemeanor.

(9) Nothing in this chapter shall be construed as granting counties or cities the authority to require the periodic renewal of beer permits.

(10) After July 1, 2015, a city or county shall not issue a permit under this chapter unless the applicant has been a citizen or lawful resident of the United States for not less than one (1) year immediately preceding the date upon which the application is made to the city or county.

(b) For the purpose of licensing, regulating and controlling the transportation, storage, sale, distribution, possession, receipt and/or manufacture of beer pursuant to this chapter, the counties of the state shall be classified in two (2) categories, one (1) of which is hereby designated Class A counties consisting of

those counties not governed by metropolitan governments as defined in § 7-2-101, and the other category is hereby designated Class B counties consisting of those counties governed by metropolitan governments as defined in § 7-2-101.

(c) When either "county" or "counties" is used in this chapter, it means counties generally without reference to the classification of counties provided for in this section, and the use of "county" or "counties" shall cause the provision limited by the word "county" or "counties" to apply equally to Class A counties and to Class B counties. When "county legislative body" or "county legislative bodies" is used in this chapter, it means "metropolitan council" or "metropolitan councils" when applicable to Class B counties.

(d)(1) It is unlawful for any person to sell, distribute or manufacture beer without having a valid certificate indicating that purchases of beer by that person are "for resale" as that term is used in § 67-6-102(75)(A).

(2) Within ten (10) days after being issued a permit to sell, distribute or manufacture beer, a person shall file with the county or city issuing the permit and with each person from whom the person buys beer a copy of a valid certificate indicating that the purchases of beer are "for resale" as that term is used in § 67-6-102(75)(A), and shall subsequently maintain at all times a valid resale certificate on file with the county or city issuing the permit and with each person from whom the person buys beer.

(e) A city or county is authorized to seek criminal history background or fingerprint checks on applicants. Criminal background checks may include fingerprint checks against state and federal criminal records maintained by the Tennessee bureau of investigation and the federal bureau of investigation. The Tennessee bureau of investigation is authorized to assess fees for the searches in accordance with the fee schedule established by the bureaus.

57-5-105. Licenses or permits to sell outside of town or city limits — Applications — Temporary permits — Hearings.

(a) The owner of a business desiring to sell, distribute, manufacture, or store beer in any Class A county outside the limits of any incorporated city or town shall file an application for a permit with the county legislative body or a committee appointed by the county legislative body.

(b) In order to receive a permit, an applicant must establish that:

(1) No beer will be sold except at places where such sale will not cause congestion of traffic or interference with schools, churches, or other places of public gathering, or otherwise interfere with public health, safety and morals, the county legislative body having the right to forbid such storage, sale or manufacture at places within two thousand feet (2,000′) of such places of public gatherings in its discretion. Nothing in this subdivision (b)(1) shall apply to places of business that are located in the terminal or main building at public airports serviced by commercial airlines with regularly scheduled flights;

(2) No sale shall be made to minors;

(3) No person, firm, corporation, joint-stock company, syndicate, or association having at least a five percent (5%) ownership interest in the applicant has been convicted of any violation of the laws against possession, sale, manufacture, or transportation of beer or other alcoholic beverages, or the manufacture, delivery, sale or possession with intent to manufacture, deliver or sell any controlled substance or controlled substance analogue, or any

crime involving moral turpitude within the past ten (10) years;

(4) No person employed by the applicant in such distribution or sale has been convicted of any violation of the laws against possession, sale, manufacture, or transportation of beer or other alcoholic beverages, or the manufacture, delivery, sale or possession with intent to manufacture, deliver or sell any controlled substance that is listed in Schedules I through V in title 39, chapter 17, part 4, or the manufacture, delivery, sale or possession with intent to manufacture, deliver or sell any controlled substance analogue, or any crime involving moral turpitude within the past ten (10) years; and

(5) No sale shall be made for on-premise consumption unless the application so states.

(c) An applicant shall disclose the following information in the application:

(1) Name of the applicant;

(2) Name of applicant's business;

(3) Location of business by street address or other geographical description to permit an accurate determination of conformity with the requirements of this section;

(4) If beer will be sold at two (2) or more restaurants or other businesses pursuant to the same permit as provided by § 57-5-103(a)(4), a description of all such businesses;

(5) Persons, firms, corporations, joint-stock companies, syndicates, or associations having at least a five percent (5%) ownership interest in the applicant;

(6) Identity and address of a representative to receive annual tax notices and any other communication from the county legislative body or its committee;

(7) That no person, firm, joint-stock company, syndicate, or association having at least a five percent (5%) ownership interest in the applicant nor any person to be employed in the distribution or sale of beer has been convicted of any violation of the laws against possession, sale, manufacture, or transportation of beer or other alcoholic beverages or any crime involving moral turpitude within the past ten (10) years;

(8) Whether or not the applicant is seeking a permit which would allow the sale of beer either for on-premises consumption or for off-premises consumption, or both of the foregoing. If a holder of a beer permit for either off-premises consumption or on-premises consumption desires to change the permit holder's method of sale, the permit holder shall apply to the county legislative body or committee appointed by such body for a new permit; and

(9) Such other relevant information as may be required by the county legislative body or its committee. An applicant or permit holder shall be required to amend or supplement its application promptly if a change in circumstances affects the responses provided in its application.

(d) Any applicant making a false statement in the application shall forfeit such applicant's permit and shall not be eligible to receive any permit for a period of ten (10) years.

(e) Any applicant seeking a license or permit under this section and who complies with the conditions and provisions of this section shall have issued to such applicant the necessary license or permit, and in the event the license or permit is refused, the applicant shall be entitled to a hearing on the application for the issuance of a license or permit. The refusal to grant a license or permit,

or the refusal to grant a hearing upon a person's application for a license or permit, may be reviewed by the circuit or chancery court in the manner as authorized under § 57-5-108.

(f) Before any county legislative body or committee appointed by the county legislative body shall issue a license or permit under this section, it may cause to be published in a newspaper of general circulation a notice in which the name of the applicant and the address of the location for such license or permit, whether the application is for the sale of alcoholic beverages for on-premises consumption and the date and time of its meeting at which such application shall be considered. Such meeting shall be a public hearing for the purpose of hearing the statement of any person or such person's attorney on any application for a license or permit.

(g)(1) Temporary beer licenses or permits not to exceed thirty (30) days' duration may be issued at the request of the applicant upon the same conditions governing permanent permits. Such a temporary license or permit shall not allow the sale, storage or manufacture of beer on publicly owned property.

(2) Notwithstanding the prohibition concerning beer sales on publicly owned property in this subsection (g), in Class B counties and counties having a population in excess of three hundred thousand (300,000), according to the 2000 federal census or any subsequent federal census a temporary permit authorizing the sale of beer on public property may be issued to a bona fide charitable or nonprofit or political organization as defined in § 57-4-102, subject to the approval of the appropriate governmental authority charged with the management of such publicly owned property and the approval of the county beer board.

(3) Notwithstanding the prohibition concerning beer sales on publicly owned property in this subsection (g), a county authorized to issue a permit under § 57-5-106(c) may issue a temporary permit authorizing the sale of beer on public property.

(h) Where a permit or license has been refused three (3) times, the applicant shall not be allowed to apply again for a permit or license on the same premises until after the expiration of one (1) year from the date of the third refusal and only if the circumstances have substantially changed. Nothing in this subsection (h) shall be construed as prohibiting or in any manner limiting the right of any refusal to be reviewed by the circuit or chancery court in the manner as authorized under § 57-5-108.

(i) Class A counties, by resolution of their county legislative bodies, may forbid the sale of beer within three hundred feet (300′) of a residential dwelling, measured from building to building; provided, that the owner of the residential dwelling appears in person before the county beer board and objects to the issuance of such permit or license. This subsection (i) shall not apply to locations where beer permits or licenses have been issued prior to the date of adoption of such a resolution by the county legislative body, or to an application for a change in the licensee or permittee at such locations.

(j) A county legislative body may impose training or certification restrictions or requirements on employees of a permit holder, but such restrictions or requirements shall not apply to any employee who is possessed of a server permit issued by the alcoholic beverage commission pursuant to chapter 3, part 7 of this title.

(k) When a permit or license has been denied based on the testimony of a

person at the hearing which caused the county to deny the permit or license, the beer board or other appropriate governing body shall notify the person who testified if the applicant seeks a permit or license again at the same location within twelve (12) months. The person who testified may submit the person's remarks in writing to the beer board or other appropriate governing body at any additional hearing in lieu of making a physical appearance to testify.

57-5-106. Licensing powers of cities, towns, and Class B counties.

(a) All incorporated cities, towns and Class B counties in this state are authorized to pass proper ordinances governing the issuance and revocation or suspension of licenses for the storage, sale, manufacture and/or distribution of beer within the corporate limits of the cities and towns and within the general services districts of Class B counties outside the limits of any smaller cities as defined in § 7-1-101 and to provide a board of persons before whom such application shall be made, but the power of such cities, towns and Class B counties to issue licenses shall in no event be greater than the power herein granted to counties, but cities, towns and Class B counties may impose additional restrictions, fixing zones and territories and provide hours of opening and closing and such other rules and regulations as will promote public health, morals and safety as they may by ordinance provide. The ordinance power granted to a municipality by this subsection (a) does not permit a municipality to establish residency requirements for its applicants. The ordinance power granted to a municipality by this section does not permit a municipality to impose training or certification restrictions or requirements on employees of a permittee if those employees possess a server permit issued by the alcoholic beverage commission pursuant to chapter 3, part 7 of this title.

(b) Cities, towns and Class B counties may authorize the sale of beer in the rooms of regularly conducted hotels and motels and in regularly incorporated clubs and lodges.

(c)(1) Notwithstanding subsection (a), any county that is the owner of property used as a park that is within the corporate boundaries of a municipality within that county has the exclusive authority to issue, revoke, and suspend licenses for the storage, sale, manufacture, and distribution of beer within the boundaries of the park consistent with the county rules governing the issuance, revocation, and suspension of licenses for other locations in the county, except there is no restriction of distance from residences or churches, schools, or other public gathering places.

(2) This subsection (c) applies only in counties with a population of not less than one hundred seventy-two thousand three hundred (172,300) nor more than one hundred seventy-two thousand four hundred (172,400), according to the 2010 federal census or any subsequent federal census.

57-5-416. Storage at location other than specific retail location for which purchased unlawful.

In order to facilitate the effective collection and enforcement by municipal and county officials of the tax levied by § 57-6-103 on all sales of beer by wholesalers to retailers or any other persons, it shall be unlawful for any retailer to store beer purchased for a specific retail location at any place other than that specific retail location.

61-2-1207. Fees.

(a) The secretary of state shall collect the following fees when the documents described in this subsection (a) are delivered to the secretary of state for filing:

Document	Fee
(1) Application for use of indistinguishable name	$20.00
(2) Application for reservation of limited partnership name	20.00
(3) Notice of transfer of reserved name	20.00
(4) Notice of cancellation of reserved name	20.00
(5) Statement of change of registered agent/office (by domestic/foreign limited partnership)	20.00
(6) Statement of change of registered office of limited partnership (by agent)	5.00 per limited partnership, but not less than 20.00
(7) Statement of resignation of registered agent for limited partnership	20.00
(8) Certificate of limited partnership (including designation of initial registered office and agent)	100.00
(9) Amendment to the certificate of limited partnership	20.00
(10) Certificate of cancellation of limited partnership	20.00
(11) Restated certificate of limited partnership	20.00
(12) Amended and restated certificate of limited partnership	20.00
(13) Certificate of merger of limited partnership	100.00
(14) Application for registration of foreign limited partnership (including designation of initial registered office and agent)	600.00
(15) Application for amended registration of foreign limited partnership	20.00
(16) Certificate of cancellation of registration of foreign limited partnership	20.00
(17) Certificate of correction	20.00
(18) Execution, amendment or cancellation of limited partnership by judicial order	No Fee
(19) Application for certificate of existence or registration of limited partnership	20.00
(20) Any other document required or permitted to be filed by chapter 2 of this title	20.00

(b) The secretary of state shall collect a fee of twenty dollars ($20.00) each time process is served on the secretary of state under chapter 2 of this title. The party to a proceeding causing service of process is entitled to recover this fee as costs if such party prevails in the proceeding.

(c) The secretary of state shall collect a fee of twenty dollars ($20.00) for copying all filed documents relating to a domestic or foreign limited partnership. All such copies will be certified or validated by the secretary of state.

62-1-107. Certificates — Issuance and renewal — Fees — Certification of accountants certified in other states — Certification of holders of equivalent foreign designations.

(a)(1) The board shall grant or renew certificates to persons who make application and demonstrate that:

(A) Their qualifications, including, where applicable, the qualifications prescribed by § 62-1-106, are in accordance with subsections (b)-(i); or

(B) They are eligible under the substantial equivalency standard set out in § 62-1-117 that requires licensure for those CPAs who establish their principal office in another state.

(2) The holder of a certificate issued under this section may only provide attest services in a CPA firm that holds a permit issued under § 62-1-108.

(b) Certificates shall be initially issued and renewed for periods of no more than two (2) years. Every holder of a certificate as a certified public accountant or a registration as a public accountant shall be required to renew the certificate or registration biennially. Biennial renewal dates may be set by the board at its discretion. The renewal process established by the board may include procedures for odd-numbered certificates and registrations to be renewed within two (2) years from the date of issuance on odd-numbered years and even-numbered certificates and registrations to be renewed within two (2) years from the date of issuance on even-numbered years. The board shall set the biennial renewal fee. All certificates and registrations issued by the board and any holder of a certificate or registration shall relinquish the certificate or registration to the board within thirty (30) days after the certificate or registration has been suspended or revoked.

(c)(1) With regard to applicants who do not qualify for reciprocity under the substantial equivalency standard set out in § 62-1-117, the board shall issue a certificate to a licensee of another state upon a showing that:

(A) The applicant passed the examination required for issuance of the applicant's certificate with grades that would have been passing grades at the time in this state;

(B) The applicant had four (4) years of experience of the type described in § 62-1-106(f) or meets equivalent requirements prescribed by the board by rule after passing the examination upon which the applicant's certificate was based and within the ten (10) years immediately preceding the application; and

(C) If the applicant's license was issued more than four (4) years prior to the application for issuance of an initial certificate under this section, the applicant has fulfilled the requirements of continuing professional education that would have been applicable under subsection (d).

(2) As an alternative to the requirements of subdivision (c)(1), a licensee of another state who desires to establish the licensee's principal place of business in this state shall request the issuance of a certificate from the board prior to establishing the principal place of business. The board shall issue a certificate to such a person who obtains from the board or its designee verification that the individual's CPA qualifications are substantially equivalent to the CPA licensure requirements of this chapter.

(d) For renewal of a certificate under this section, each licensee shall participate in a program of learning designed to maintain professional competency. The program of learning must comply with rules adopted by the board.

The requirements established by the board shall prescribe regulations requiring continuing education of eighty (80) credit hours over a two-year period, with a minimum of twenty (20) credit hours in each year as a prerequisite for the renewal of a certificate. The board may by rule create an exception to this requirement for certificate holders who do not perform or offer to perform for the public one (1) or more kinds of services involving the use of accounting or auditing skills, including issuance of reports on financial statements or of one (1) or more kinds of management advisory, financial advisory or consulting services, or the preparation of tax returns or the furnishing of advice on tax matters. Licensees granted such an exception by the board must place the word "inactive" adjacent to their CPA title or PA title on any business card, letterhead or any other document or device, with the exception of their CPA certificate or PA registration, on which their CPA or PA title appears.

(e) The board shall charge a fee for each application for initial issuance or renewal of a certificate under this section in an amount prescribed by the board. The board, by rule, may not require inactive licensees sixty-five (65) years of age or older, disabled persons who are unable to practice accountancy for a period of time and persons in active military service to pay a renewal fee.

(f) Applicants for initial issuance or renewal of certificates under this section shall in their applications list all states in which they have applied for or hold licenses and list any past denial, revocation or suspension of a license; and each holder of or applicant for a certificate under this section shall notify the board in writing, within thirty (30) days after its occurrence, of any issuance, denial, revocation or suspension of a license by another state, change of address or employment or any conviction by a court of competent jurisdiction of a felony.

(g) The board shall issue a certificate to a holder of a substantially equivalent foreign designation; provided, that:

(1) The foreign authority that granted the designation makes similar provision to allow a person who holds a valid certificate issued by this state to obtain the foreign authority's comparable designation;

(2) The foreign designation:

(A) Was duly issued by a foreign authority that regulates the practice of public accountancy and the foreign designation has not expired or been revoked or suspended;

(B) Entitles the holder to issue reports upon financial statements; and

(C) Was issued upon the basis of educational, examination and experience requirements established by the foreign authority or by law; and

(3) The applicant:

(A) Received the designation based on educational and examination standards substantially equivalent to those in effect in this state at the time the foreign designation was granted;

(B) Completed an experience requirement substantially equivalent to the requirement set out in § 62-1-106(f) in the jurisdiction that granted the foreign designation or has completed four (4) years of professional experience in this state or meets equivalent requirements prescribed by the board by rule within the ten (10) years immediately preceding the application; and

(C) Passed a uniform qualifying examination in national standards and an examination on the laws, regulations and code of ethical conduct in effect in this state acceptable to the board.

(h) An applicant under subsection (g) shall in the application list all

jurisdictions, foreign and domestic, in which the applicant has applied for or holds a designation to practice public accountancy; and each holder of a certificate issued under this subsection (h) shall notify the board in writing, within thirty (30) days after its occurrence, of any issuance, denial, revocation or suspension of a designation or commencement of a disciplinary or enforcement action by any jurisdiction or any conviction by a court of competent jurisdiction of a felony.

(i) The board has the sole authority to interpret the application of subsections (g) and (h).

62-1-111. Revocation, suspension or refusal to renew license — Other penalties — Hearings — Procedure — Costs.

(a) After notice and hearing pursuant to § 62-1-120, the board may revoke any license issued under § 62-1-107, § 62-1-108 or § 62-1-109 or corresponding provisions of prior law, may suspend the license or refuse to renew the license for a period of no more than five (5) years, may reprimand, censure or limit the scope of practice of any licensee, may impose a civil penalty or may place any licensee on probation, all with or without terms, conditions and limitations, for any one (1) or more of the following reasons:

(1) Fraud or deceit in obtaining a license;

(2) Cancellation, revocation, suspension or refusal to renew a license or practice rights for disciplinary reasons in any other state for any cause;

(3) Failure on the part of a licensee to maintain compliance with the requirements for issuance or renewal of the license or to report changes to the board under § 62-1-107(f) or § 62-1-108(g);

(4) Revocation or suspension of the right to practice before any state or federal agency;

(5) Dishonesty, fraud or gross negligence in the performance of services as a licensee or in the filing or failure to file the licensee's own income tax returns;

(6) Violation of any provision of this chapter or rule promulgated by the board under this chapter or violation of professional standards;

(7) Violation of any rule of professional conduct promulgated by the board;

(8) Conviction of a felony or of any crime an element of which is dishonesty or fraud under the laws of the United States, of this state, or of any other state or country if the acts involved would have constituted a crime under the laws of this state. However, an action taken under this subdivision (a)(8) shall be subject to the applicable provisions of the Fresh Start Act that are compiled in chapter 76, part 1 of this title;

(9) Performance of any fraudulent act while holding a certificate or permit issued under this chapter or prior law;

(10) Any conduct reflecting adversely upon the licensee's fitness to perform services while a licensee;

(11) Making any false or misleading statement or verification in support of an application for a license filed by another; and

(12) Violation of the terms of any lawful order entered by the board.

(b) In lieu of or in addition to any remedy specifically provided in subsection (a), the board may require of a licensee:

(1) A peer review conducted in the fashion that the board may specify; and/or

(2) Satisfactory completion of continuing professional education programs that the board may specify.

(c) The board has the power to sit as a trial board, to summon records and witnesses by subpoena and to compel their attendance, to administer oaths and to pass judgment upon those licensed under this chapter pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5. Prior to disciplinary actions against persons licensed under authority of this chapter, the board shall provide written notice to the parties affected by the contemplated disciplinary actions at least thirty (30) days in advance of such action pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5. Parties affected by any contemplated disciplinary action shall be entitled to a full hearing prior to any disciplinary action taken by the board conducted pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, and shall be entitled to be represented by counsel and make such defense as may be proper.

(d) In any proceeding in which a remedy provided by subsection (a) or (b) is imposed, the board may also require the respondent licensee to pay all costs of the proceeding.

(e) In any case where the board renders a decision imposing discipline against a licensee under this section, the board shall examine its records to determine whether the licensee holds a certificate or a permit in any other state; and if so, the board shall notify the board of accountancy of the other state of its decision by mail, within forty-five (45) days of rendering the decision. The board may also furnish information relating to proceedings resulting in disciplinary action to other public authorities and to private professional organizations having a disciplinary interest in the licensee. Where a petition for review has been filed pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, the notification and furnishing of information provided for in this subsection (e) shall await the resolution of the review; and, if resolution is in favor of the licensee, no notification or furnishing of information shall be made.

62-2-308. Denial, suspension or revocation of certificate — Reissuance.

(a)(1) The board may refuse to issue or renew, and revoke or suspend, the certificate of registration of any architect, engineer, landscape architect or registered interior designer registered under this chapter who is found guilty:

(A) Of any fraud or deceit in obtaining a certificate of registration;

(B) Of gross negligence, incompetency or misconduct in the practice of architecture, engineering, landscape architecture or in the use of the title "registered interior designer;"

(C) Of failure to obtain, keep and utilize the registrant's seal as provided in this chapter;

(D) By a court of competent jurisdiction of breach of contract for professional services;

(E) Of any violation of the rules adopted by the board;

(F) Of having the person's right to practice architecture, engineering, landscape architecture or use the title registered interior designer suspended or revoked by another state or national registration board; or

(G) By a court of competent jurisdiction of any felony. However, an action taken under this subdivision (a)(1)(G) shall be subject to the applicable provisions of the Fresh Start Act that are compiled in chapter 76, part 1 of this title.

(2) Any person may prefer charges in writing to the board against any architect, engineer, landscape architect or registered interior designer registered under this chapter on any of the grounds listed in subdivision (a)(1).

(3) The affirmative vote of five (5) or more members of the board shall be necessary in order to revoke or suspend the certificate of registration of any architect, engineer, landscape architect or registered interior designer registered under this chapter.

(b) The board may reissue a certificate of registration to any person whose certificate has been revoked; provided, that five (5) or more members of the board vote in favor of reissuance for reasons the board may deem sufficient.

(c) [Deleted by 2015 amendment.]

(d) The board members are officers of the state in carrying out the duties imposed by this chapter and as such have the full measure of governmental immunity provided by law.

62-3-121. Ground for refusal, suspension or revocation of certificate.

(a) The board may either refuse to issue or renew or may suspend or revoke any certificate of registration for any one (1) or combination of the following causes:

(1) Conviction of a felony for the commission of an offense that bears directly on the person's fitness to practice competently, as determined by the board;

(2) Gross malpractice or gross incompetency;

(3) Continued practice by a person knowingly having an infectious or contagious disease;

(4) Advertising by means of knowingly false or deceptive statements;

(5) Habitual drunkenness or habitual addiction to the use of morphine, cocaine or other habit-forming drug;

(6) Immoral or unprofessional conduct; or

(7) A violation of this chapter or any rules adopted under this chapter.

(b) An action taken under this section shall be subject to the applicable provisions of the Fresh Start Act that are compiled in chapter 76, part 1 of this title.

62-4-125. Health and safety rules and regulations.

(a) The board shall, with the approval of the department of health, promulgate rules of sanitation that it may deem reasonably necessary, with particular attention to the precautions for preventing the development and spread of infections and contagious diseases.

(b) Each school and shop shall have:

(1) Adequate restroom facilities, except when located in a commercial building where such facilities are already provided; and

(2) Separate entrances from entrances to adjoining residential or living quarters, if any.

(c) Where a school and a shop are operated in the same building, there shall be separate entrances and exits and separate restroom facilities for each

business.

(d) It is unlawful:

(1) For the owner or manager of any school or shop to permit any person to sleep in or use for residential purposes any room used wholly or partially as a school or shop; and

(2) For any person, firm or corporation that holds a cosmetology, manicurist or aesthetician license to practice cosmetology outside a shop or school, or for any person, firm or corporation that holds a natural hair styling license to practice natural hair styling outside a shop or school, except:

(A) In any nursing home;

(B) In the recipient's residence, short-term residence, or place of business;

(C) In any hospital or infirmary;

(D) In a funeral establishment;

(E) In a retail establishment, to demonstrate or apply, or both, cosmetics without charge;

(F) At the site of television, motion picture, video or theatrical productions, photographic sessions or similar activities; or

(G) In a licensed mobile shop.

(e) [Deleted by 2018 amendment.]

62-4-127. Inspections — Cause for suspension, revocation, or for denial of license.

(a) The board or its authorized representatives may, at reasonable hours, inspect any place of business operated by any person licensed under this chapter.

(b) The board may suspend, revoke or refuse to issue or renew any license under this chapter for any of the following causes:

(1) Fraud in procuring a license;

(2) Unprofessional, immoral or dishonorable conduct;

(3) Addiction to intoxicating liquors or drugs;

(4) The sale or distribution of wine, beer, liquor or any alcoholic beverages or drugs on the premises of any cosmetology, manicuring, or aesthetics establishment is prohibited; however, wine, beer, liquor or alcoholic beverages may be served to a patron without a charge, but no such beverages shall be served to a patron who is intoxicated or believed to be intoxicated;

(5) Unlawful invasion of the field of practice of any profession;

(6) Receipt of fees or payment on the assurance that any incurable disease can be cured;

(7)(A) Conviction of a felony, if the felony conviction occurred within three (3) years prior to the board's decision to suspend, revoke, or refuse to issue or renew the license. However, an action taken under this subdivision (b)(7)(A) shall be subject to the applicable provisions of the Fresh Start Act that are compiled in chapter 76, part 1 of this title; or

(B) Conviction of any misdemeanor involving moral turpitude, if the misdemeanor conviction occurred within one (1) year prior to the board's decision to suspend, revoke, or refuse to issue or renew the license. However, an action taken under this subdivision (b)(7)(B) shall be subject to the applicable provisions of the Fresh Start Act that are compiled in chapter 76, part 1 of this title;

(8) Any cause for which issuance of a license could have been refused had it existed and been known to the board at the time of issuance;

(9) A violation of this chapter or of any rules duly promulgated under this chapter; or

(10) Failure to comply with a lawful order of the board.

62-5-312. Registration as an apprentice.

(a) When beginning the required apprenticeship, the person shall file an apprentice registration form with the board and shall pay a fee in the amount to be established by the board. The registration shall be valid for a period of three (3) years from the date of registration, or until the registrant has completed the apprenticeship requirements, whichever occurs first.

(b) The apprentice registration form shall contain the name of the registrant, showing that the registrant:

(1) Has attained eighteen (18) years of age;

(2) Is a citizen of the United States;

(3) Is of good moral character;

(4) Has graduated from a high school or has earned a GED® recognized by a state education department; and

(5) Is a bona fide paid employee of an establishment working no less than forty (40) hours per week in the presence of and under the direction and supervision of a licensed funeral director or embalmer.

(c) All persons who are apprentice funeral directors, apprentice embalmers and mortuary school students registered by the board and who are in the process of fulfilling their apprenticeship and educational requirements on or before December 31, 2007, shall not be required to complete the apprenticeship requirements that become effective on January 1, 2008. The apprentices and mortuary school students shall complete all requirements to become licensed by the board as a funeral director or embalmer on or before June 30, 2011.

(d) When beginning the required course of study, the person shall file a student registration form with the board and shall pay a fee in the amount to be established by the board. The registration shall be valid for a period of three (3) years from the date of registration, or until the registrant has completed the apprenticeship requirements, whichever occurs first.

62-5-317. Grounds for denial, suspension or revocation of license.

(a) The board may refuse to grant or may suspend, revoke or refuse to renew any license granted to any person under this chapter if:

(1) The applicant for or holder of the license obtained the license by fraud or misrepresentation either in the application for the license or in passing the examination for the license;

(2) The applicant for or holder of the license has been convicted of a felony or crime involving moral turpitude. However, an action taken under this subdivision (a)(2) shall be subject to the applicable provisions of the Fresh Start Act that are compiled in chapter 76, part 1 of this title;

(3) The applicant for or holder of the license has been guilty of willfully violating any section of this chapter or any rule or regulation of the state or local board of health governing the disposition of dead human bodies;

(4) The applicant for or holder of the license has been guilty of immoral or unprofessional conduct;

(5) The applicant for or holder of the license knowingly permits an unlicensed person to engage in the profession or business of funeral directing or embalming under the applicant's or holder's supervision;

(6) The applicant for or holder of the license has been guilty of habitual drunkenness or is addicted to the use of morphine, cocaine or other habit-forming drugs;

(7) The applicant for or holder of the license has been guilty of refusing to promptly surrender the custody of a dead human body upon the expressed order of the person legally entitled to the body;

(8) The applicant has received payment directly or indirectly or has caused to be paid directly or indirectly any sum of money or other valuable consideration for the securing of business or for obtaining authority to dispose of dead human bodies; or

(9) The applicant or holder performs services after December 31, 1968, in a professional capacity as a funeral director or embalmer, or both, for any unlicensed funeral establishment operating in violation of this chapter.

(b) In addition, the board may refuse to grant or may suspend, revoke or refuse to renew any license granted for the operation of a funeral establishment or to any funeral director or embalmer under this chapter for:

(1) Misrepresentation or fraud in the conduct of the business of the funeral establishment;

(2) False or misleading advertising;

(3) Solicitation of dead human bodies by the licensee, the licensee's agents, assistants or employees, whether the solicitation occurs after death or when death is imminent; provided, that this shall not be deemed to prohibit general advertising. Nothing in this subdivision (b)(3) shall, however, prohibit, prevent or in any way restrict the sale of burial protection or burial insurance;

(4) Employment directly or indirectly of any apprentice, agent, assistant, employee or other person, on a part-time or full-time basis or on commission, for the purpose of calling upon individuals or institutions by whose influence dead human bodies may be turned over to a particular funeral establishment;

(5) The direct or indirect payment or offer of payment of a fee by the licensee or the licensee's agents, assistants or employees for the purpose of securing general establishment business;

(6) Aiding or abetting an unlicensed person to practice within the funeral profession;

(7) Solicitation or acceptance by the licensee of a rebate in consideration for recommending or causing a dead human body to be disposed of in any crematory, mausoleum or cemetery;

(8) Using any casket or part of a casket that has previously been used as a receptacle for, or in connection with, the burial or other disposition of a dead human body, except the shipping of another dead human body; or where disposition of the dead human body is to be by cremation, it shall be permissible to utilize a previously used casket shell for viewing the remains if, and only if, a new interior or interior insert is installed prior to each usage of the casket shell;

(9) Any willful violation of any state law or municipal or county ordinance or regulation affecting the handling or custody, care or transportation of dead human bodies;

(10) Fraud or misrepresentation in renewing a license to operate a funeral establishment;

(11) Unreasonably refusing to promptly surrender the custody of a dead human body upon the express order of the person lawfully entitled to the custody of the dead human body;

(12) Knowingly making any false statement on the certificate of death;

(13) A violation of any statutes pertaining to the prearrangement or prefinancing, or both, of a funeral in this state;

(14) Supplying another person with false or misleading information concerning any law that requires embalmment of deceased persons;

(15) Solicitation or acceptance by the licensee of a fee for the affixing or attaching of a permanent identification device to a dead human body that is placed in a casket to be interred or entombed;

(16) Solicitation or acceptance by the licensee of a fee for the placing of a permanent identification device in a crematory urn before placing human remains in the urn;

(17) Failure to comply with any of the provisions of this chapter or any rule or regulation promulgated or adopted by the board;

(18) The applicant or licensee providing a monetary contribution in exchange for a business referral to any hospice providing hospice services as defined in § 68-11-201, or to any officer, administrator, board member, or employee of a hospice providing hospice services as defined in § 68-11-201;

(19) The applicant or licensee owning five percent (5%) or more of any hospice providing hospice services as defined in § 68-11-201; or

(20) The applicant or licensee entering into any type of ownership arrangement with any hospice providing hospice services as defined in § 68-11-201.

(c) Subdivisions (b)(18)-(20) shall not:

(1) Preclude a person or legal entity from giving a contribution to a hospice providing hospice services as defined in § 68-11-201; or

(2) Apply to persons serving on boards or within organizations for which the persons receive no direct compensation but may receive reimbursement for activities related to the organization.

62-5-403. Part definitions.

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

(1) "Cash advance item" means any item obtained from a third party and paid for by the funeral provider on the purchaser's behalf. Cash advance items may include, but are not limited to, sales tax, certified copies of death certificates, clergy honoraria, flowers, musicians or singers, obituary notices and gratuities;

(2) "Commissioner" means the commissioner of commerce and insurance or the commissioner's designee;

(3) "Department" means the department of commerce and insurance;

(4) "Funeral merchandise":

(A) Means merchandise, whether sold by a funeral establishment, cemetery company, or any other individual, partnership, company, corporation, or association, intended for use in the final disposition of a dead human body;

(B) Includes caskets and containers designed to be used in the grave around the casket or around cremated remains, commonly known as urns, urn vaults, outer burial containers, burial vaults, grave boxes, and grave liners; and

(C) Does not include cemetery merchandise as defined in § 46-1-102;

(5) "Guaranteed pre-need funeral contract" means the pre-need seller, where the contract has been funded in accordance with its terms, shall furnish at the time of death of the contract beneficiary, at no additional charge to the next of kin, the estate of the deceased, or other individual or entity responsible for the funeral, the merchandise and services selected, or the equivalent if the specific merchandise is not readily available, in the pre-need funeral contract. The only adjustment in the charge to the next of kin, the estate of the deceased or other individual or entity responsible for the funeral shall be for cash advance items. The pre-need seller shall be obligated to deliver the agreed upon merchandise and services under a fully funded pre-need funeral contract for the available funding at the time of death of the contract beneficiary. Nothing in this section shall be construed to prohibit the pre-need seller from receiving the available funding up to the seller's current retail price for the merchandise and services at the time of death of the contract beneficiary;

(6) "Insurance company" means any corporation, limited liability company, association, partnership, society, order, individual or aggregation of individuals engaging in or proposing or attempting to engage as principals in any kind of insurance business, including the exchanging of reciprocal contracts between individuals, partnerships, and corporations;

(7) "Nonguaranteed pre-need funeral contract" means, in addition to any cash advance items, the pre-need seller may charge the individual or entity responsible for the funeral any difference between the available funding and the seller's current retail price at the time of death of the contract beneficiary for the merchandise and services selected in the pre-need funeral contract;

(8) "Prearrangement insurance policy" means a life insurance policy, annuity contract, or other insurance contract, or any series of contracts or agreements in any form or manner, issued by an insurance company, that, whether by assignment or otherwise, funds a pre-need funeral contract, the insured or annuitant being the person for whose funeral service the funds were paid;

(9)(A) "Pre-need funeral contract" means any agreement, contract or plan requiring the payment of money in advance, whether in a lump sum or installments and whether funded by a pre-need funeral trust or prearrangement insurance policy or combination of a pre-need funeral trust and a prearrangement insurance policy, that is made or entered into with any person, association, partnership, firm or corporation for the final disposition of a dead human body, for funeral or burial services or for the furnishing of personal property or funeral or burial merchandise, wherein the use of the personal property or the funeral or burial merchandise or the furnishing of professional services by a funeral director or embalmer is not immediately required;

(B) Except as otherwise provided in § 62-5-406, "pre-need funeral contract" does not mean the furnishing of cemetery merchandise and services otherwise regulated under title 46, chapter 1, part 2.

(C) "Pre-need funeral contract" does not include a travel protection agreement for the coordination and arranging of all professional services related to the preparation for the purpose of transportation and subsequent transportation of a dead human body;

(10) "Pre-need funeral contract beneficiary" means the person upon whose death the pre-need funeral contract will be performed. This person may also be the purchaser of the pre-need funeral contract;

(11) "Pre-need funeral funds" means all payments of cash, or its equivalent, made to a pre-need seller or pre-need sales agent upon any pre-need funeral contract;

(12) "Pre-need funeral trust" means funds set aside in a trust account held by a trustee to provide for a pre-need funeral contract;

(13) "Pre-need sales agent" means an individual who has applied for and has been granted, or who engages in conduct requiring, registration to sell pre-need funeral contracts on behalf of a pre-need seller pursuant to this part;

(14) "Pre-need seller" means a funeral establishment or other individual, firm, partnership, company, corporation, or association that has applied for and has been granted, or that engages in conduct requiring, registration to sell pre-need funeral contracts pursuant to this part; and

(15)(A) "Trustee" means a state or national bank, federally chartered savings and loan association, state chartered trust company, or, in the reasonable discretion of the commissioner upon the terms and conditions that the commissioner may require, a securities brokerage firm licensed and in good standing with appropriate state and federal regulatory authorities.

(B) Prior to July 1, 2011, "trustee" may also mean a certified public accountant who the commissioner determines meets all of the following requirements:

(i) The certified public accountant has served during the 2007 calendar year as the trustee for a trust account established pursuant to this part;

(ii) The certified public accountant is covered by errors and omissions liability insurance in an amount equal to or greater than the amount held in trust; and

(iii) The certified public accountant has complied with all previous reporting requirements required by statute and rules of the commissioner;

(C) On or after July 1, 2011, every trustee of every trust account shall be a trustee as set forth in subdivision (14)(A).

62-6-306. Issuance of license — Expiration — Roster of licensees — Notification of changes.

(a) If the commissioner determines that an applicant meets the requirements of this part and is qualified for a home inspector license, the commissioner shall issue a license to the applicant that shall expire two (2) years following the date of issuance, unless revoked or suspended prior to the expiration date. The expiration date of the license shall appear on the license and no other notice of its expiration need be given to its holder. The commissioner shall maintain a roster, which shall be made available to the

public, showing the name and place of business of each home inspector currently licensed. A licensee shall notify the commissioner immediately of any change of name, name under which the licensee conducts business or business address.

(b) An action taken under this section shall be subject to the applicable provisions of the Fresh Start Act that are compiled in chapter 76, part 1 of this title.

62-6-308. Disciplinary powers of commissioner.

(a) The commissioner may take disciplinary action against a licensee or applicant, deny an application for a license, assess a civil penalty of up to one thousand dollars ($1,000) per violation, or may suspend, revoke, or refuse to issue or renew a license when a licensee performs or attempts to perform any of the following acts:

(1) Accepting or offering commissions or allowances, directly or indirectly, from or to parties other than the client, unless fully disclosed to the client in writing;

(2) Performing or offering to perform repair or maintenance work on a property the licensee has inspected in the preceding twelve (12) months;

(3) Using a home inspection with the intention to obtain work in another field or profession;

(4) Accepting compensation, financial or otherwise, from more than one (1) interested party for the same service without the consent of all interested parties;

(5) Failing to disclose to the client any financial interest or any relationship that may affect the client's interest;

(6) Disclosing information concerning the results of a home inspection without the approval of the client or the client's legal representative, except under a court order;

(7) Knowingly making a false or misleading representation about:

(A) The condition of a residential dwelling for which the licensee has performed or has contracted to perform a home inspection; or

(B) The extent of the services the licensee has performed or will perform;

(8) Committing a felony offense that bears directly on the person's fitness to practice competently, as determined by the commissioner. However, an action taken under this subdivision (a)(8) shall be subject to the applicable provisions of the Fresh Start Act that are compiled in chapter 76, part 1 of this title;

(9) Violating any provisions of this part or rules promulgated by the commissioner under this part;

(10) Making a false or misleading representation:

(A) In a license or renewal application form; or

(B) In information provided to the commissioner;

(11) Failing to pay any fees or fines required by this part;

(12) Failing to continuously maintain the insurance required by this part;

(13) Communicating to the public false or misleading information about the type of license held by the licensee;

(14) Engaging in a course of lewd or immoral conduct in connection with the delivery of services to clients; or

(15) Failing to complete the continuing education requirements established by the commissioner.

(b) The commissioner is authorized to issue citations against persons engaging in or conducting the business or acting in the capacity of a home inspector as defined in this part without a license in violation of § 62-6-304. The commissioner shall promulgate rules and regulations to specify those conditions necessary to the issuance of a citation and the range of penalties for violations of this part. Each citation shall:

(1) Be in writing and shall describe with particularity the basis for the citation; and

(2) Contain an order to cease all violations of this part and an assessment of a civil penalty in an amount not less than fifty dollars ($50.00) nor more than one thousand dollars ($1,000) per violation.

(c) The sanctions authorized pursuant to this part shall be in addition to any other remedies, civil and criminal, available to any person harmed by a violation of this part.

(d) The Uniform Administrative Procedures Act, compiled in title 4, chapter 5, governs all matters and procedures respecting the hearing and judicial review of any contested case arising under this part.

62-9-110. Revocation of registration upon conviction of violations — Denial of application or suspension, revocation, or refusal to issue or renew registration by commissioner — Civil penalty.

(a) The scrap metal registration of a person convicted of a violation of this chapter, or the criminal offense of theft, burglary or vandalism if the offense involved scrap metal, shall be immediately revoked by operation of law upon conviction. A copy of the judgment of conviction shall be transmitted to the commissioner of commerce and insurance by the law enforcement agency responsible for the conviction.

(b) The commissioner may deny an application for registration or may suspend, revoke or refuse to issue or renew any registration issued under this chapter upon finding that the holder or applicant is guilty of any violation enumerated in § 62-9-114(a) or any rule properly promulgated by the commissioner. In addition to or in lieu of any other lawful disciplinary action under this section, the commissioner may assess a civil penalty of up to one thousand dollars ($1,000) for each violation. Each day of continued violation constitutes a separate violation.

(c) An action taken under this section shall be subject to the applicable provisions of the Fresh Start Act that are compiled in chapter 76, part 1 of this title.

62-11-109. Hearings and judicial review in contested cases — Written charges for violations — Suspension, nonrenewal or revocation of license.

(a) The Uniform Administrative Procedures Act, compiled in title 4, chapter 5, shall govern all matters and procedures regarding the hearing and judicial review of any contested case arising under this chapter.

(b) Any person may present charges in writing to the commissioner against any licensee or registrant, or other person, firm or business offering locksmith-

ing services in violation of this chapter.

(c) The commissioner may, after notice and an opportunity for hearing, suspend, refuse to renew or revoke a license or licensure issued under this chapter if it is determined that the licensee or registrant has:

(1) Made any false statement or given any false information in connection with any application for licensure or a license or for the renewal or reinstatement of licensure or a license;

(2) Violated this chapter;

(3) Violated any rule promulgated by the commissioner pursuant to the authority contained in this chapter;

(4) Been convicted of any crime that may be grounds for denial of licensing as a locksmith or licensure as a registered employee. However, an action taken under this subdivision (c)(4) shall be subject to the applicable provisions of the Fresh Start Act that are compiled in chapter 76, part 1 of this title;

(5) Failed to comply with an order of the commissioner;

(6) Impersonated or permitted or aided and abetted any other person to impersonate a law enforcement officer of the United States, this state or any of its political subdivisions;

(7) Engaged in or permitted any employee to engage in any locksmithing business when not in possession of a valid license under this chapter;

(8) Been found guilty by the commissioner of misconduct, gross negligence or incompetence;

(9) Committed any act that is grounds for the denial of an application or a license under this chapter;

(10) Failed to maintain insurance as required by this chapter; or

(11) Engaged in or permitted any employee to engage in any improper, fraudulent or dishonest dealing with the public.

62-18-116. Denial, suspension or revocation of certificate — Disciplinary action.

(a)(1) The board may refuse to issue a certificate of registration, may revoke, suspend or refuse to renew a certificate of registration or may take other lawful disciplinary action against any land surveyor registered under this chapter for any of the following causes:

(A) Any fraud or deceit in obtaining a certificate of registration;

(B) Any incompetency, misconduct or gross negligence in the practice of land surveying;

(C) Any violation of this chapter or of any rules duly adopted under this chapter;

(D) Any failure to comply with the minimum acceptable standards of practice established pursuant to § 62-18-106(c);

(E) Any conviction of a felony for the commission of an offense that bears directly on the person's fitness to practice competently. However, an action taken under this subdivision (a)(1)(E) shall be subject to the applicable provisions of the Fresh Start Act that are compiled in chapter 76, part 1 of this title; or

(F) Any revocation, suspension, disciplinary action or voluntary surrender of a license or certificate of registration to practice land surveying in any jurisdiction.

(2) Any person may prefer charges against any land surveyor registered under this chapter on any of the grounds in subdivision (a)(1). The charges shall be in writing, sworn to by the complainant, and shall specifically state the factual basis for the charges.

(3) Subdivision (a)(2) shall not be construed to preclude the board from filing charges against a land surveyor on its own motion.

(b) Nothing in this chapter shall be construed to negate the right of any person, partnership, firm, joint stock association or corporation from appealing to the civil courts for relief.

(c) The affirmative vote of a majority of the members of the board shall be necessary in order to revoke the certificate of registration of any land surveyor registered under this chapter or to reissue a certificate of registration to any person whose certificate has been revoked.

(d) The board shall notify the register of deeds of each county that would likely be affected by the revocation or suspension of a certificate of registration or the reissuance of a revoked or suspended certificate of registration.

62-18-217. Grounds for suspension, revocation or refusal to renew licensure — Hearing — Administrative or judicial review — Injunction — Reissuance.

(a) The commissioner shall have the power to suspend, revoke, or refuse to renew the certificate of licensure of any licensee who:

(1) Is found to have been convicted of:

(A) Any fraud or deceit in obtaining a certificate of licensure;

(B) A felony for the commission of an offense that bears directly on the licensee's fitness to practice competently, as determined by the commissioner. However, an action taken under this subdivision (a)(1)(B) shall be subject to the applicable provisions of the Fresh Start Act that are compiled in chapter 76, part 1 of this title; or

(C) Any unlawful act as set forth in this chapter; or

(2) Who is found guilty of fraud, deceit, gross neglect, incompetence, or misconduct in the practice of soil science as a licensed professional soil scientist.

(b) Any such action by the commissioner to suspend, revoke, or refuse to renew a certificate of licensure shall be taken after a hearing held in accordance with the procedures set forth in the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(c) Any administrative or judicial review of such action shall likewise be in accordance with the procedures set forth in the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(d) The commissioner may seek relief at law or equity to restrain or enjoin any act or practice in violation of this part, or of any rule promulgated to effectuate the purposes of this part. Jurisdiction is conferred upon the chancery and circuit courts of this state to hear and determine such a suit. No bond shall be required for the prosecution of the suit or for the issuance of an injunction.

(e) The commissioner may reissue a certificate of licensure to any person whose certificate of licensure has been revoked upon written application to the commissioner by the applicant, showing good cause to justify such reissuance.

62-19-112. Denial, revocation or suspension of license by commission — Retirement of license.

(a) The commission may, upon its own motion, and shall, upon the verified complaint in writing of any person, hold a hearing as provided in this chapter and investigate the actions of any auctioneer, apprentice auctioneer or any person who assumes to act in either capacity; provided, that the complaint with the evidence, documentary or otherwise, presented in connection with the complaint, makes out a prima facie case.

(b) The commission may suspend, revoke or refuse to renew any license issued under this chapter where the license has been obtained by false or fraudulent representations or for any of the following causes:

(1) Making any substantial misrepresentation;

(2) Pursuing a continued and flagrant course of misrepresentation or making false promises through agents or advertising or otherwise;

(3) Accepting valuable consideration as an apprentice auctioneer for the performance of any of the acts specified in this chapter, from any person, except the licensee's employer auctioneer;

(4) Failing to account for or remit, within a reasonable time, any money belonging to others that comes into the licensee's possession, commingling funds of others with the licensee's own or failing to keep the funds of others in an escrow or trustee account; provided, however, that nothing in this section shall be construed to require an auto auction as defined in § 55-17-102(1)(A) to maintain or use an escrow account when the auction does not accept and deposit funds of others;

(5) Paying valuable consideration to any person for services performed in violation of this chapter;

(6) Being convicted in a court of competent jurisdiction of this or any other state, or of the United States, of a criminal offense involving moral turpitude or a felony. However, an action taken under this subdivision (b)(6) shall be subject to the applicable provisions of the Fresh Start Act that are compiled in chapter 76, part 1 of this title;

(7) Violating any provision of this chapter, or any rule or regulation duly promulgated under this chapter;

(8) Failing to furnish voluntarily to all interested parties, at the time of execution, copies of all written instruments prepared by the auctioneer or apprentice auctioneer;

(9) Failing prior to the sale at public auction to enter into a written contract with the owner or consignee of any property to be sold, containing the terms and conditions upon which the licensee receives the property for sale;

(10) Engaging in the business of auctioning real property without being duly licensed as a broker or affiliate broker under the provisions of the Tennessee Real Estate Broker License Act of 1973, compiled in chapter 13 of this title;

(11) Knowingly using false bidders, cappers or pullers;

(12) Any conduct of any auctioneer that demonstrates improper, fraudulent, incompetent or dishonest dealings; or

(13) Violating title 55, chapter 17, or any rule duly promulgated under title 55, chapter 17, pertaining to the sale or auction of motor vehicles.

(c) The affirmative vote of a majority of the commission shall be necessary to

revoke or suspend a license.

(d) An auctioneer or apprentice auctioneer may retire the auctioneer's or apprentice auctioneer's license by making such request in writing and paying the appropriate fees set by the commission. The written request must be accompanied by the license certificate and pocket card. The retiree shall be responsible for notifying the commission of any change in address. Only licenses that are current and in good standing with the commission may be retired.

62-21-103. Business charter requirement.

(a) No person shall engage in business as a commercial pest control operator until the person has secured a charter from the department.

(b) Any form of solicitation for pest control business or advertising is forbidden under this chapter unless the person has a charter issued in one (1) or all of the categories established by regulation under this chapter.

(c) [Deleted by 2018 amendment.]

(d) The charter may be granted in any one (1) or all of the categories established by regulation under this chapter.

(e) The charter may be issued only if the requirements of this chapter have been met and the stipulated fees have been received by the department.

(f) A charter shall be required for each office and each branch office. The requirements of this chapter do not apply to any class of commercial pest control operators such as, but not limited to, aerial applicators, when that class of commercial pest control operators is the subject of specific laws and regulations relating to that specific class in the commercial application of pesticides.

(g) All chartered companies are required to label the sides of company vehicles with the name of the company and the charter number. The size of the lettering shall not be less than two inches (2″) tall.

(h) All chartered persons, companies or corporations shall have a physical address and shall maintain a physical address while the charter is in effect.

62-25-107. Investigation by real estate commission — Suspension or revocation of license.

(a) The real estate commission, upon its own motion or upon a signed complaint made by any person in writing, may investigate the activities of any rental location agent in this state or any person who acts in that capacity.

(b) The commission may suspend, revoke or refuse to issue or renew a rental location agent's license on any of the following grounds:

(1) Proof of financial irresponsibility or insolvency;

(2) Making any materially false or misleading statement or omission in an application for a license;

(3) Conviction of or a plea of nolo contendere to a felony or misdemeanor, if the commission finds that the conviction or plea renders the applicant or licensee insufficiently trustworthy to deal with the public. However, an action taken under this subdivision (b)(3) shall be subject to the applicable provisions of the Fresh Start Act that are compiled in chapter 76, part 1 of this title; or

(4) Any violation of this chapter or of any rule duly adopted by the commission under this chapter.

(c) The license of any real estate broker or affiliate broker who acts as a

rental location agent may be suspended or revoked on any of the grounds stated in subsection (b).

62-26-217. Revocation of license.

(a) The commission may suspend, revoke or refuse to issue or renew any license under this part upon finding that the holder or applicant has:

(1) Violated this part or any rule promulgated under this part;

(2) Practiced fraud, deceit or misrepresentation;

(3) Knowingly and willfully made a material misstatement in connection with an application for a license or renewal;

(4) Been convicted by a court of competent jurisdiction of a felony or a misdemeanor. However, an action taken under this subdivision (a)(4) shall be subject to the applicable provisions of the Fresh Start Act that are compiled in chapter 76, part 1 of this title; or

(5) Committed any act that would have been cause for refusal to issue the license or registration card had it existed and been known to the commission at the time of issuance.

(b) In addition to or in lieu of any other lawful disciplinary action under this section, the commission may assess a civil penalty not exceeding two thousand dollars ($2,000).

(c) A license shall be subject to expiration and renewal during any period in which the license is suspended.

62-27-108. License applications.

(a) An application for original license shall be made to the commission in writing under oath on forms prescribed by the commission and shall be accompanied by the required fee, which is not refundable.

(b) The application shall contain information that the commission deems necessary to enable it to judge the qualifications of the applicant.

(c) An action taken under this section shall be subject to the applicable provisions of the Fresh Start Act that are compiled in chapter 76, part 1 of this title.

62-27-117. Grounds for license refusal, revocation or suspension.

The commission may refuse to issue or may suspend or revoke a license on any one (1) or more of the following grounds:

(1) Failing to inform a subject to be examined as to the nature of the examination;

(2) Failing to inform a subject to be examined that the subject's participation in the examination is voluntary;

(3) Material misstatement in the application for original license or in the application for any renewal license under this chapter;

(4) Willful disregard or violation of this chapter or of any regulation or rule issued pursuant to this chapter, including, but not limited to, willfully making a false or misleading report, including an oral report, concerning an examination for polygraph examination purposes and for inquiring into areas prohibited by this chapter;

(5) If the holder of any license has been adjudged guilty of the commission of any felony or has been adjudged guilty of the commission of any

misdemeanor involving moral turpitude. However, an action taken under this subdivision (5) shall be subject to the applicable provisions of the Fresh Start Act that are compiled in chapter 76, part 1 of this title;

(6) Making any willful misrepresentation or false promises to the person being examined or causing to be printed any false or misleading advertisement for the purpose of directly or indirectly obtaining business or interns;

(7) Having demonstrated unworthiness or incompetency to act as a polygraph examiner as defined by this chapter or by any rule or regulation issued pursuant to this chapter;

(8) Allowing one's license under this chapter or the polygraph instrument to be used by an unlicensed person in violation of this chapter;

(9) Knowingly or willingly aiding or abetting another in the violation of this chapter or any regulation or rule issued pursuant to this chapter;

(10) Where the license holder has been adjudged mentally incompetent as provided by state law;

(11) Failing, within thirty (30) calendar days, to provide information requested by the commission as the result of a formal complaint to the commission that would indicate a violation of this chapter;

(12) Failing to inform the subject of the results of the examination upon written request;

(13) Failing to fully and completely inform the examinee of the examinee's rights and to follow the procedure for examination, as provided in this chapter; or

(14) In the case of a company, willful disregard in the employment of polygraph examiners who demonstrate unworthiness or incompetency to act as polygraph examiners.

62-32-319. Suspension or revocation of certificate or license — Grounds.

(a) Any person may prefer charges in writing to the board against any certificate holder, licensee, registrant or other person, firm or business offering alarm systems or services in violation of this part.

(b) The board may, after notice and an opportunity for hearing, suspend or revoke a certification or license issued under this part if it is determined that the licensee or certified person has:

(1) Made any false statement or given any false information in connection with any application for a license or for the renewal or reinstatement of a license;

(2) Violated any provision of this part;

(3) Violated any rule promulgated by the board pursuant to the authority contained in this part;

(4) Been convicted of any crime indicating lack of good moral character. However, an action taken under this subdivision (b)(4) shall be subject to the applicable provisions of the Fresh Start Act that are compiled in chapter 76, part 1 of this title;

(5) Failed to correct business practices or procedures that have resulted in a prior reprimand by the board;

(6) Impersonated or permitted or aided and abetted any other person to impersonate a law enforcement officer of the United States, this state or any of its political subdivisions;

(7) Engaged in or permitted any employee to engage in any alarm contracting business when not lawfully in possession of a valid certification or license issued under this part;

(8) Been convicted on an unlawful breaking or entering, assault, battery or kidnapping;

(9) Been found guilty by the board of misconduct, gross negligence or incompetence or committed any other act that is a ground for the denial of an application for a certification or a license under this part; or

(10) Failed to maintain insurance and bond as required by this part.

(c) The board has the power to revoke or suspend any certification or license or renewal granted by it for any of the reasons stated in this section or for a failure to observe the terms and conditions of any certification, license or renewal.

(d) The board may refuse to issue or renew a certification or license to any person, firm or corporation for lack of financial stability, misconduct, gross negligence, lack of expertise, submission of false evidence with regard to application of license or renewal, conviction of a felony and any other conduct that constitutes improper, fraudulent or dishonest dealing or violation of this part.

(e) The Uniform Administrative Procedures Act, compiled in title 4, chapter 5, governs all matters and procedures regarding the hearing and judicial review of any contested case arising under this part.

62-35-130. Disciplinary powers of commissioner — Civil penalties.

(a) The commissioner may take disciplinary action against a licensee, registrant or applicant, deny an application for a license or registration or may suspend, revoke or refuse to issue or renew any certificate, certified trainer license, license or registration card under this chapter upon finding that the holder or applicant has:

(1) Violated this chapter or any rule promulgated under this chapter;

(2) Practiced fraud, deceit or misrepresentation;

(3) Knowingly and willfully made a material misstatement in connection with an application for a license or registration card;

(4) Been convicted by a court of competent jurisdiction of any felony or of a misdemeanor. However, an action taken under this subdivision (a)(4) shall be subject to the applicable provisions of the Fresh Start Act that are compiled in chapter 76, part 1 of this title;

(5) Committed any act that would have been cause for refusal to issue the license or registration card had it existed and been known to the commissioner at the time of issuance;

(6) Engaged in dishonorable, unethical or unprofessional conduct of a character likely to deceive, defraud or harm the public;

(7) Willfully deceived or defrauded a member of the public being protected;

(8) Acted as a contract security company or proprietary security company without a currently valid license;

(9) Acted as an armed or unarmed security officer/guard on a registration card that has expired or without a valid registration card as this chapter requires;

(10) Violated any disciplinary order of the commissioner; or

(11) Failed or refused to cooperate with any inspection or investigation to determine compliance with this chapter or rules and regulations promulgated pursuant to this chapter.

(b) In addition to or in lieu of any other lawful disciplinary action under this section, the commissioner may assess a civil penalty of up to two thousand dollars ($2,000) for each statute or rule violation.

(c) The commissioner may assess a civil penalty of up to two thousand dollars ($2,000) per occurrence upon any person who operates without the proper license or other authorization required.

(d) A license or registration card shall be subject to expiration and renewal during any period in which the license or registration card is suspended.

(e) Whenever an armed or unarmed security guard/officer pleads guilty or is convicted of any offense enumerated in this chapter, the licensee must within thirty (30) days notify the commissioner of that conviction and provide the commissioner with certified copies of the conviction. The licensee's license shall automatically be revoked thirty (30) days after the licensee's conviction unless the licensee makes a written request to the commissioner for a hearing during the thirty-day period. Following any such hearing held pursuant to this section, the commissioner may impose upon that licensee any sanction or discipline permitted by this chapter.

62-36-119. Suspension, revocation or refusal to renew license — Hearings — Administrative and judicial review — Injunctions — Governmental immunity.

(a) The department shall have the power to suspend, revoke or refuse to renew the certificate of licensure of any licensee who:

(1) Is found to have been convicted of:

(A) Any fraud or deceit in obtaining a certificate of licensure;

(B) Any felony or any crime involving moral turpitude. However, an action taken under this subdivision (a)(1)(B) shall be subject to the applicable provisions of the Fresh Start Act that are compiled in chapter 76, part 1 of this title; or

(C) Any unlawful act as set forth in this chapter; or

(2) Is found guilty of fraud, deceit, gross neglect, incompetence or misconduct in the practice of geology as a licensed professional geologist.

(b) Any action by the department to suspend, revoke or refuse to renew a certificate of licensure shall be taken after a hearing held in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(c) Any administrative or judicial review of such action shall likewise be in accordance with the procedures set forth in the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(d) The department may seek relief at law or equity to restrain or enjoin any act or practice in violation of this chapter or of any rule promulgated to effectuate the purposes of this chapter. Jurisdiction is conferred upon the chancery and circuit courts of this state to hear and determine such a suit. No bond shall be required for the prosecution of the suit or for the issuance of an injunction.

(e) Members of the department are officers of the state in carrying out the duties imposed by this chapter and as such have the full measure of governmental immunity provided by law.

62-39-326. Violations — Revocation or suspension.

The rights of any applicant or holder under a certificate as a state licensed or certified real estate appraiser may be revoked, suspended or restricted, or the owner of the certificate may be assessed a civil penalty of up to one thousand dollars ($1,000) per violation, or otherwise disciplined in accordance with this chapter, upon any of the following grounds:

(1) Procuring or attempting to procure a license or certificate pursuant to this chapter by knowingly making a false statement, submitting false information, refusing to provide complete information in response to a question in an application for a license or certificate or through any form of fraud or misrepresentation;

(2) Paying money other than provided for by this chapter to any member or employee of the commission to procure a license or certificate under this chapter;

(3) Conviction, including conviction based upon a plea of guilty or nolo contendere, of a crime that is substantially related to the qualifications, functions, and duties of a person developing appraisals and communicating appraisals to others or conviction of any felony. However, an action taken under this subdivision (3) shall be subject to the applicable provisions of the Fresh Start Act that are compiled in chapter 76, part 1 of this title;

(4) An action or omission involving dishonesty, fraud or misrepresentation; or

(5) A violation of any of the standards for appraisals and appraisal practice as set forth in this chapter and the rules and regulations promulgated by the commission.

62-43-106. Registration.

(a)(1) No person shall provide, advertise or otherwise hold itself out as providing professional employer services in this state unless such person is registered under this chapter.

(2) The department shall register an applicant meeting the requirements of this chapter.

(3)(A) If the department denies registration to an applicant, the department shall provide written notice that includes the reasons for the denial. The applicant shall have sixty (60) days from the date the notice was sent to:

(i) Submit proof to the department that the reasons for the denial have been cured; or

(ii) Request, in writing, reconsideration from the commissioner.

(B) The department shall provide written notice of its determination after considering the applicant's submission or request under subdivisions (a)(3)(A)(i) or (a)(3)(A)(ii) within thirty (30) days of receiving a submission or request.

(C)(i) After submission of a written request for consideration, an initial applicant shall have the right to appear before the commissioner or the commissioner's designee to present the applicant's request for reconsideration. If an applicant wishes to appear before the commissioner or the commissioner's designee to present their request for reconsideration, then the department shall provide written notice of its determination within thirty (30) days after such appearance; provided, that it is the commissioner's decision as to whether or not the defect or defects have

been cured and whether or not to issue the registration.

(ii) An applicant who is not an initial applicant may request a hearing pursuant to § 4-5-320 before the commissioner makes a final determination to deny a renewal registration.

(4) Registration under this chapter shall remain in force for two (2) years from the date of issuance of registration.

(b) Each applicant for initial registration under this chapter shall submit to the department the following:

(1) Any name under which the applicant conducts business;

(2) The address of the principal place of business of the applicant and of each office it maintains in this state;

(3) The applicant's taxpayer or employer identification number;

(4) A list by state of each name under which the applicant has operated in the preceding five (5) years, including any alternative names, names of predecessors and, if known, successor business entities;

(5) A statement of ownership, which shall include the name, address and principal occupation of any person that, individually or acting in concert with one (1) or more other persons, owns or controls, directly or indirectly:

(A) Twenty percent (20%) or more of the equity interests of the applicant who is a publicly traded entity; or

(B) Ten percent (10%) or more of the equity interest of the applicant who is not a publicly traded entity;

(6) A statement of management, which shall include the name, address and principal occupation of any person who serves as president, chief executive officer or otherwise has the authority to act as a senior executive officer of the applicant;

(7) If the applicant or a person listed in subdivisions (b)(5) or (6) has in any jurisdiction:

(A) Been convicted of or entered a plea of nolo contendere to a crime relating to the operation of a professional employer organization;

(B) Been disciplined relating to the operation of a professional employer organization;

(C) Been convicted of or entered a plea of nolo contendere to an offense relating to bribery, dishonesty or fraud;

(D) Been convicted of or entered a plea of nolo contendere to any felony. However, an action taken under this subdivision (b)(7)(D) shall be subject to the applicable provisions of the Fresh Start Act that are compiled in chapter 76, part 1 of this title; or

(E) Been found liable for civil fraud;

(8) A financial statement setting forth the financial condition of the applicant; provided, that:

(A) The applicant shall submit the most recent audit of the applicant with its initial application;

(B) No financial statement submitted with the initial application shall be older than thirteen (13) months from the date of the report of the auditor;

(C) Within one hundred eighty (180) days of the close of an applicant's fiscal year, the applicant shall submit its most recent financial statement; provided, that an applicant may apply to the department for additional time to submit its financial statements, and such a request shall be accompanied by a letter from the auditors stating the reasons for the delay

and the anticipated audit completion date;

(D) Financial statements submitted pursuant to this subdivision (b)(8) shall be prepared in accordance with generally accepted accounting principles and audited by an independent certified public accountant licensed to practice in the jurisdiction in which such accountant is located; provided, that no resulting report of the auditor shall include:

(i) A qualification or disclaimer of opinion as to adherence to generally accepted accounting principles; or

(ii) A statement expressing substantial doubt about the ability of the applicant to continue as a going concern;

(E) An applicant may submit combined or consolidated audited financial statements to meet the requirements of this section;

(F) Notwithstanding subdivision (b)(8)(D)(i):

(i) An applicant that has not had sufficient operating history to have financial statements based upon at least twelve (12) months of operating history shall meet the financial capacity requirements in subsection (c) and submit financial statements reviewed by an independent certified public accountant; and

(ii) If an applicant is a subsidiary or is related to a variable interest entity, then the applicant may submit financial statements of the professional employer organization, professional employer organization group or the controlling organization;

(G)(i) In lieu of audited financial statements required by this subdivision (b)(8), an applicant or registrant with small operations may submit financial statements compiled by an independent certified public accountant.

(ii) The department shall consider an applicant or registrant a professional employer organization with small operations if the applicant or registrant submits to the department:

(a) A request to be deemed a PEO with small operations on a form prescribed by the department; and

(b) The most recent fourth quarter federal Form 941 of the applicant or registrant and any related person that offers professional employer services; provided, the aggregate annualized wages shall be less than fifty million dollars ($50,000,000).

(iii) The form required in subdivision (b)(8)(G)(ii) shall be submitted to the department in any year the applicant or registrant seeks to be considered a professional employer organization with small operations.

(iv) In any year that an applicant or registrant with small operations does not meet the requirements to maintain such status, that applicant or registrant shall have six (6) months from the close of the current fiscal year of the applicant or registrant to either:

(a) Meet the requirements of this subdivision (b)(8)(G); or

(b) Submit audited financial statements;

(9) Evidence of workers' compensation coverage for covered employees in this state who are subject to the Tennessee Workers' Compensation Law, compiled in title 50, chapter 6 and as amended; and

(10) A written statement in regards to whether the applicant sponsors a self-insured health plan.

(c) Except as provided by subdivision (b)(8)(F)(i) and subsection (f), an applicant shall maintain either:

(1) Positive working capital at registration as reflected in the financial statements submitted to the department under subdivision (b)(8); or

(2) An applicant that does not have positive working capital may provide a bond, irrevocable letter of credit or securities with a minimum market value equaling the deficiency plus one hundred thousand dollars ($100,000) to the department; provided, that such instruments are to be held by an institution designated by the department, securing payment by the applicant of all taxes, wages, benefits or other entitlements due to or with respect to covered employees if the applicant does not make such payments when due.

(d)(1) No later than one hundred eighty (180) days after the applicant's fiscal year that is the second year of its current registration, the applicant may renew its registration by:

(A) Notifying the department of any changes in the information submitted under subsection (b); and

(B) Submitting the financial statement required under subdivision (b)(8) or the alternatives under subdivision (b)(8)(G) or subsection (c), as applicable.

(2) An applicant's existing registration shall remain in effect during the pendency of a renewal application.

(e) An applicant who is a professional employer organization group may satisfy the requirements in this section on a combined or consolidated basis; provided, that each member of the professional employer organization group guarantees the financial capacity obligations under this chapter of each other member of the professional employer organization group. In the case of a professional employer organization group that submits a combined or consolidated audited financial statement including entities that are not professional employer organizations or that are not in the professional employer organization group, the controlling entity of the professional employer organization group under the consolidated or combined statement shall guarantee the obligations of the professional employer organizations in the professional employer organization group.

(f)(1) An applicant is eligible for a limited registration under this chapter if such applicant:

(A) Submits a request for limited registration to the department;

(B) Is domiciled outside this state and is licensed or registered as a professional employer organization in another state;

(C) Does not maintain an office in this state or directly solicits clients located or domiciled within this state; and

(D) Does not have more than fifty (50) covered employees employed or domiciled in this state.

(2) Limited registration is valid for two (2) years and may be renewed.

(3) An applicant seeking limited registration under this subsection (f) shall provide the department with information and documentation necessary to show that the applicant qualifies for a limited registration.

(4) Subdivision (b)(8) and subsection (c) shall not apply to applicants for limited registration.

(g) Notwithstanding § 62-43-104, the department shall maintain a list of registrants that is readily available to the public by electronic or other means.

(h)(1) The department shall to the extent practical, permit the acceptance of electronic filings in conformance with the Uniform Electronic Transactions Act, compiled in title 47, chapter 10 and as amended, including applications,

documents, reports and other filings required by this chapter.

(2) The department may provide for the acceptance of electronic filings and other assurance by an independent and qualified assurance organization approved by the department that provides satisfactory assurance of compliance acceptable to the department consistent with or in lieu of the requirements in subsections (b) and (c), and other requirements of this chapter or the rules promulgated pursuant to it.

(3) The department may permit an applicant to authorize such an approved assurance organization to act on the applicant's behalf in complying with the registration requirements of this chapter, including electronic filings of information and payment of registration fees; provided, that use of such an approved assurance organization shall be optional and not mandatory for an applicant.

(4) Nothing in this subsection (h) shall limit or change the department's authority to register or terminate registration of a registrant or applicant or to investigate or enforce this chapter.

(i) A registrant shall:

(1) Submit to the department, within ninety (90) days of the end of each calendar quarter, a statement by an independent certified public accountant or independent public accountant that for the quarter all applicable payroll taxes have been paid on a timely basis. Upon a showing of reasonable cause, one (1) thirty-day extension per quarter shall be granted by the department;

(2) Maintain and make available for the department's inspection any and all records concerning the registrant's conduct of business under its registration, which records shall be maintained for a period of three (3) years after termination of the professional employer agreement;

(3) Notify the department in writing of a change in the information submitted under subdivisions (b)(1)-(7) within thirty (30) days of such change;

(4) Post the registration issued under this chapter in a conspicuous place in the principal place of business and display in clear public view in each registrant's office in this state a notice stating that the professional employer organization is licensed and regulated by the department and that any questions or complaints should be directed to the department; and

(5) Submit a written response to a written inquiry from the department within thirty (30) days of receiving the inquiry.

62-76-104. Denial of license for prior criminal prosecution prohibited.

(a) As used in this section, "licensing authority" means any state department, board, commission, or agency that issues any license, certificate, or registration for an individual to engage in an occupation, profession, business, or trade in this state, including to those licensing authorities that have statutory authority to deny, suspend, or revoke a license for felonies or misdemeanors of moral turpitude.

(b)(1) Subject to the exemptions in this section and unless prohibited by federal law, a licensing authority shall not deny an application for a license, certificate, or registration, or refuse to renew a license, certificate, or registration due to a prior criminal conviction that does not directly relate to the applicable occupation, profession, business, or trade.

(2) Prior to denying an application for a license, certificate, or registration on the basis of a criminal conviction, or prior to the refusal to renew a

license, certificate, or registration, on the basis of a criminal conviction, the licensing authority shall notify the applicant, licensee, certificate holder, or registrant of the licensing authority's determination in writing via certified mail, facsimile transmission, or email. The written notification shall include the licensing authority's justification for denial or refusal to renew in accordance to subdivision (b)(4)(A). The determination must state the earliest date upon which the applicant is eligible to reapply for the license, certificate, or registration.

(3) Prior to submitting the application necessary to obtain a license, certificate, or registration, an individual may request written notice from the licensing authority from which they seek to obtain a license, certification, or registration concerning the individual's qualification to obtain the license, certification, or registration based on the individual's criminal history. If the licensing authority determines that an individual is disqualified due to the individual's criminal history, the licensing authority must provide the individual with a written notification that sets forth the reasons for its determination and its justification in accordance with subdivision (b)(4)(A). The written notice as to the individual's qualifications to obtain a license, certification, or registration must be limited to the individual's criminal history and should not be construed as prohibiting the licensing authority from denying an application on other grounds. This determination shall apply exclusively to the individual and shall not be construed as an advisory or formal opinion of the licensing authority.

(4)(A) In considering whether to deny an application for a license, certificate, or registration to an applicant, or whether to refuse to renew a license, certificate, or registration, on the basis of a criminal conviction, the licensing authority must consider:

(i) The nature and seriousness of the crime for which the individual was convicted;

(ii) The length of time since the commission of the crime;

(iii) The relationship between the nature of the crime and the purposes of regulating the occupation, profession, business, or trade for which the license, certificate, or registration is sought;

(iv) The relationship between the crime and the ability, capacity, and fitness required to perform the duties and discharge the responsibilities of the occupation, profession, business, or trade;

(v) Any evidence of rehabilitation or treatment undertaken by the individual that might mitigate against the relationship of crime to the occupation, profession, business, or trade; and

(vi) Any applicable federal laws regarding an individual's participation in the occupation, profession, business, or trade.

(B) If an applicant, licensee, certificate holder, or registrant's prior conviction was for a Class A felony, Class B felony, or Class C felony not defined under title 39, chapter 17, part 4, or if the felony conviction is for an offense for which the offender is required to register under the Tennessee Animal Abuser Registration Act, compiled in title 40, chapter 39, part 1; the Tennessee Sexual Offender and Violent Sexual Offender Registration, Verification and Tracking Act of 2004, compiled in title 40, chapter 39, part 2; or title 40, chapter 39, part 3, there shall be a rebuttable presumption that the conviction relates to the fitness of the applicant, licensee, certificate holder, or registrant engaged in the appli-

cable occupation, profession, business, or trade.

(c) An individual, applicant, licensee, certificate holder, or registrant who receives written notice pursuant to subdivision (b)(2) or (b)(3) may file a petition within thirty (30) business days of the receipt of the notice in Davidson County chancery court. The licensing authority must demonstrate by a preponderance of the evidence that the individual, applicant, licensee, certificate holder, or registrant's conviction is related to the applicable occupation, profession, business, or trade.

(d) Nothing in this section shall be construed to prohibit a licensing authority created by this title from issuing a restricted or conditional license, if otherwise authorized to do so under law.

(e) Nothing in this section shall be construed to create a separate right to a contested case hearing that does not otherwise exist relative to the denial of the license, certificate, or registration under the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(f) Nothing in this section applies to:

(1) The board of law examiners, created under § 23-1-101;

(2) The board of judicial conduct, created under § 17-5-201;

(3) The licensure of services and facilities operated pursuant to title 33, chapter 2, part 4, for the provision of mental health services, alcohol, and drug abuse prevention or treatment; for the provision of services for intellectual and developmental disabilities; and for personal support services;

(4) The certification of police officers under title 38, chapter 8;

(5) Any licensing authority created under titles 41, 48, 49, 56, and 71;

(6) The department of financial institutions, when acting as a licensing authority pursuant to title 45;

(7) Any license, certificate, or registration issued pursuant to the rules of the supreme court;

(8) The licensure of pain management clinics licensed pursuant to title 63, chapter 1, part 3; and

(9) The licensure of physicians under title 63, chapter 6 or 9.

62-76-105. Waiver of initial licensure fees for low-income persons. [Effective on January 1, 2019.]

(a) As used in this section:

(1) "Licensing" means the procedure through which the privilege to engage in a specific profession regulated under this title is granted by a licensing authority;

(2) "Licensing authority" means any state agency with the authority to impose training, education, or licensure fees to practice in a profession;

(3) "Licensure fee" means a fee imposed by a licensing authority on persons licensed to practice a profession for the privilege of providing goods or services;

(4) "Low-income persons" means persons who are enrolled in a state or federal public assistance program, including, but not limited to, temporary assistance for needy families (TANF), medicaid, or supplemental nutrition assistance program (SNAP); and

(5) "State agency" means a state board, agency, or commission attached to the division of regulatory boards, as listed in § 4-3-1304(a).

(b)(1) Any licensing authority that requires a license for persons to practice in a profession shall waive all initial licensure fees for low-income persons.

(2) Persons seeking a waiver of initial licensure fee requirements shall apply to the appropriate licensing authority in a format prescribed by the authority.

(3) All licensing authorities to which this section applies shall promulgate rules to effectuate the purposes of this section. The rules shall be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

62-76-201. Part definitions. [Effective on January 1, 2019. See the version effective until January 1, 2019.]

As used in this part:

(1) "Apprenticeship" means a program that:

(A) Meets the federal guidelines set out in 29 CFR Part 29 and 29 U.S.C. § 50; and

(B) Complies with this part and the guidelines established pursuant to § 62-76-202;

(2) "Licensing authority" means any state agency with the authority to impose training, education, or licensure fees to practice in a profession; and

(3) "State agency" means a state board, agency, or commission attached to the division of regulatory boards, as listed in § 4-3-1304(a).

62-76-202. Licensure. [Effective on January 1, 2019. See the version effective until January 1, 2019.]

(a) Notwithstanding any law to the contrary and in addition to any other process by which a person may be granted a license pursuant to state law, a licensing authority shall also grant a license, unless other cause for denial of the issuance of the license exists, to any applicant who:

(1) Possesses a high school diploma or its equivalent, which shall include a general educational development (GED®) certificate;

(2) Has completed an apprenticeship that requires the applicant to learn the skills and knowledge relevant to the chosen profession under the direct supervision and instruction of a person duly licensed, registered, or certified to practice in the applicant's chosen profession and provides sufficient documentation to the licensing authority of completion of the apprenticeship;

(3) Has passed any examination required under law to become licensed, registered, or certified to practice in the applicant's chosen profession; and

(4) Has paid any fees required by the licensing authority for the license.

(b)(1) Each licensing authority may limit the amount of time or number of attempts following completion of an apprenticeship that an applicant has to pass any required examinations. However, the amount of time or number of attempts to pass any required examination must not be more restrictive than any limits placed on any other person attempting to pass the examination after otherwise qualifying to take the examination.

(2) If the relevant licensing authority does not require an examination of any other person applying to practice in that profession, no examination is required for applicants who complete an apprenticeship under this part.

(c) Each licensing authority shall determine the duration of any apprenticeship for the profession that the authority regulates. A licensing authority shall

grant apprentice status to a person only once under this part.

(d) Each licensing authority shall require that an apprentice register with the licensing authority and may set reasonable fees for registration or other transactions, such as changes of address or issuance of duplicate credentials. An apprentice is authorized to engage in acts requiring licensure by the licensing authority under the direct supervision and instruction of a professional licensed to practice in the applicant's chosen profession. However, the licensing authority may set limits on the apprentice's practice as are reasonably necessary to protect the health, safety, and welfare of the public.

(e) Any licensing authority creating an apprentice program under this part shall promulgate rules to effectuate this part, including guidelines for any apprenticeship program created pursuant to this part. All rules must be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(f) Nothing in this part requires any state agency to create an apprenticeship.

(g) A licensing authority may refuse to issue an apprentice registration to any person for any reason, other than experience or education, that the licensing authority could deny issuance of a regular license in the apprentice's chosen profession. Further, no apprentice registration may be issued to any person who could not be issued a regular license in the apprentice's chosen profession.

(h) This section does not apply to licensing authorities providing licensure pursuant to the Contractors Licensing Act of 1994, compiled in chapter 6, part 1 of this title.

62-76-203. Applicability. [Effective on January 1, 2019.]

(a) Nothing in this part overrides any of the requirements of the following:

(1) Instructor trainee programs, junior instructor programs, or apprenticeships under the Tennessee Cosmetology and Barbering Act, compiled in chapter 4 of this title;

(2) Apprenticeships under chapter 5 of this title;

(3) Apprenticeships under the Locksmith Licensing Act of 2006, compiled in chapter 11 of this title;

(4) Affiliate broker programs under the Tennessee Real Estate Broker License Act of 1973, compiled in chapter 13 of this title;

(5) Apprenticeships under chapter 19 of this title;

(6) Apprenticeships under the Private Investigators Licensing and Regulatory Act, compiled in chapter 26 of this title;

(7) Internships under the Polygraph Examiners Act, compiled in chapter 27 of this title; or

(8) Appraiser trainee programs under the State Licensing and Certified Real Estate Appraisers Law, compiled in chapter 39 of this title.

(b) If a program, apprenticeship, or internship as described in subsection (a) or by rule exists for a profession, then a licensing authority shall not create a separate apprentice program under this part for that profession.

63-1-129. Solicitation of accident and disaster victims by health care prescribers prohibited — Exceptions.

(a) Health care prescribers, their employees, agents, or independent contractors shall not conduct in-person solicitation, telemarketing, or telephonic solicitation of victims of an accident or disaster, for the purpose of marketing

services of the healing arts related to the accident or disaster, unless:

(1) The health care prescriber has a family or prior professional relationship with the victim; or

(2) The solicitation is carried out more than thirty (30) days after the date of the accident or disaster.

(b) Health care prescribers shall maintain:

(1) Telemarketing transcripts for a period of two (2) years following their utilization; and

(2) A log of contacts for a period of two (2) years following a telemarketing encounter.

(c) This section does not prohibit solicitation by targeted direct-mail advertising or other forms of written, radio, or television advertising, as long as the advertising does not involve coercion, duress, or harassment and is not false, deceptive, or misleading.

(d)(1) Any agreement to pay a health care prescriber for services that were rendered by the health care prescriber as a direct result of a violation of this section is void and unenforceable. No person may collect or pursue collection for any debt arising from such an agreement.

(2) A patient or person who paid on behalf of a patient is entitled to a complete refund of any money paid for services that were rendered by a health care prescriber as a direct result of a violation of this section.

(e) The division is authorized to petition any circuit or chancery court having jurisdiction to enjoin any person who is violating this section. No injunction bond shall be required of the division in such proceedings, and jurisdiction is conferred upon the circuit and chancery courts of this state to hear such cases.

63-1-130. Denial of license for prior criminal prosecution prohibited.

(a) As used in this section, "licensing authority" means any state department, board, commission, or agency that issues any license, certificate, or registration for an individual to engage in an occupation, profession, business, or trade in this state, including to those licensing authorities that have statutory authority to deny, suspend, or revoke a license for felonies or misdemeanors of moral turpitude.

(b)(1) Subject to the exemptions in this section and unless prohibited by federal law, a licensing authority shall not deny an application for a license, certificate, or registration, or refuse to renew a license, certificate, or registration due to a prior criminal conviction that does not directly relate to the applicable occupation, profession, business, or trade.

(2) Prior to denying an application for a license, certificate, or registration on the basis of a criminal conviction, or prior to the refusal to renew a license, certificate, or registration on the basis of a criminal conviction, the licensing authority shall notify the applicant, licensee, certificate holder, or registrant of the licensing authority's determination in writing via certified mail, facsimile transmission, or email. The written notification shall include the licensing authority's justification for denial or refusal to renew in accordance to subdivision (b)(4)(A). The determination must state the earliest date upon which the applicant is eligible to reapply for the license, certificate, or registration.

(3) Prior to submitting the application necessary to obtain a license, certification, or registration an individual may request written notice from

the licensing authority from which they seek to obtain a license, certification, or registration concerning the individual's qualification to obtain the license, certificate, or registration, based on the individual's criminal history. If the licensing authority determines that an individual is disqualified due to the individual's criminal history, the licensing authority must provide the individual with a written notification that sets forth the reasons for its determination and its justification in accordance with subdivision (b)(4)(A). The written notice as to the individual's qualifications to obtain a license, certificate, or registration must be limited to the individual's criminal history and should not be construed as prohibiting the licensing authority from denying an application on other grounds. This determination shall apply exclusively to the individual and shall not be construed as an advisory or formal opinion of the licensing authority.

(4)(A) In considering whether to deny an application for a license, certificate, or registration to an applicant, or whether to refuse to renew a license, certificate, or registration, on the basis of a criminal conviction, the licensing authority must consider:

(i) The nature and seriousness of the crime for which the individual was convicted;

(ii) The length of time since the commission of the crime;

(iii) The relationship between the nature of the crime and the purposes of regulating the occupation, profession, business, or trade for which the license, certificate, or registration is sought;

(iv) The relationship between the crime and the ability, capacity, and fitness required to perform the duties and discharge the responsibilities of the occupation, profession, business, or trade;

(v) Any evidence of rehabilitation or treatment undertaken by the individual that might mitigate against the relationship of crime to the occupation, profession, business, or trade; and

(vi) Any applicable federal laws regarding an individual's participation in the occupation, profession, business, or trade.

(B) If an applicant, licensee, certificate holder, or registrant's prior conviction was for a Class A felony, Class B felony, or Class C felony not defined under title 39, chapter 17, part 4, or if the felony conviction is for an offense for which the offender is required to register under the Tennessee Animal Abuser Registration Act, compiled in title 40, chapter 39, part 1; the Tennessee Sexual Offender and Violent Sexual Offender Registration, Verification and Tracking Act of 2004, compiled in title 40, chapter 39, part 2; or title 40, chapter 39, part 3, there shall be a rebuttable presumption that the conviction relates to the fitness of the applicant, licensee, certificate holder, or registrant engaged in the applicable occupation, profession, business, or trade.

(c) An individual, applicant, licensee, certificate holder, or registrant who receives written notice pursuant to subdivision (b)(2) or (b)(3) may file a petition within thirty (30) business days of the receipt of the notice in Davidson County chancery court. The licensing authority must demonstrate by a preponderance of the evidence that the individual, applicant, licensee, certificate holder, or registrant's conviction is related to the applicable occupation, profession, business, or trade.

(d) Nothing in this section shall be construed to prohibit a licensing authority created by this title from issuing a restricted or conditional license,

if otherwise authorized to do so under law.

(e) Nothing in this section shall be construed to create a separate right to a contested case hearing that does not otherwise exist relative to the denial of the license, certificate, or registration under the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(f) Nothing in this section applies to:

(1) The board of law examiners, created under § 23-1-101;

(2) The board of judicial conduct, created under § 17-5-201;

(3) The licensure of services and facilities operated pursuant to title 33, chapter 2, part 4, for the provision of mental health services, alcohol, and drug abuse prevention or treatment; for the provision of services for intellectual and developmental disabilities; and for personal support services;

(4) The certification of police officers under title 38, chapter 8;

(5) Any licensing authority created under titles 41, 48, 49, 56, and 71;

(6) The department of financial institutions, when acting as a licensing authority pursuant to title 45;

(7) Any license, certificate, or registration issued pursuant to the rules of the supreme court;

(8) The licensure of pain management clinics licensed pursuant to chapter 1, part 3 of this title; and

(9) The licensure of physicians under chapter 6 or 9 of this title.

63-1-141. Default on student loans by members of the healing arts profession. [Effective until January 1, 2019. See the version effective on January 1, 2019.]

(a) Upon receiving a copy of a final order as provided in subsection (b) from the Tennessee student assistance corporation (TSAC) or a guarantee agency that has an agreement with the United States secretary of education (guarantee agency), each board, commission, committee, agency or other governmental entity (licensing authority) created pursuant to this title shall suspend, deny or revoke the license of, or take other such appropriate disciplinary action, against any person (also referred to as the debtor), who has defaulted on a repayment or service obligation under any federal family education loan program, the federal Higher Education Act of 1965, a student loan guaranteed or administered by the Tennessee student assistance corporation or any other state or federal educational loan or service-conditional scholarship program.

(b)(1) Each board, commission, committee, agency or other governmental entity created pursuant to this title shall accept any determination of default from TSAC or a guarantee agency, after TSAC or the guarantee agency has afforded a debtor an opportunity to be heard in accordance with subdivision (b)(2); and such board, commission, committee, agency or other governmental entity shall rescind any disciplinary action and restore any license or certificate upon receiving notice from such corporation or guarantee agency that the person has agreed to serve such person's obligation or is in compliance with an approved repayment plan.

(2)(A) Unless a debtor has made satisfactory arrangements according to the lender, TSAC or the guarantee agency, which may include administrative wage garnishment, voluntary payment arrangements or deferment/forbearance, then the debtor shall be regarded as delinquent or in

default. If a debtor is delinquent or in default on a repayment or service obligation under a guaranteed student loan identified in subsection (a) or such debtor has failed to enter into a payment plan or comply with a payment plan previously approved by TSAC or the guarantee agency, then TSAC or the guarantee agency shall issue to such debtor a notice of intent to file an order with the appropriate licensing authority to suspend, deny or revoke the debtor's license or certificate. The notice must:

(i) Be served upon the debtor personally or by certified mail with return receipt requested; and

(ii) State that the debtor's license or certificate will be suspended, denied or revoked ninety (90) days after service, unless within that time the debtor:

(a) Pays the entire debt stated in the notice;

(b) Enters into a payment plan or complies with a payment plan previously entered into and approved by TSAC or the guarantee agency; or

(c) Requests a hearing before TSAC or the guarantee agency.

(B) Any such hearing request by the debtor shall be made in writing and must be received by TSAC or the guarantee agency within twenty (20) days of the date the notice is served.

(C) TSAC, or the guarantee agency, upon receipt of a request for a hearing from the debtor, shall schedule a hearing to determine whether suspension, denial or revocation of the debtor's license or certificate is appropriate. The debtor's license or certificate may not be suspended, denied or revoked until a determination is reached following the hearing. The only issues that may be determined in such hearing are:

(i) The amount of the debt, if any;

(ii) Whether the debtor is delinquent or in default; and

(iii) Whether the debtor has entered into a payment plan or the debtor is willing to enter into a payment plan or to comply with a payment plan previously entered into and approved by TSAC or the guarantee agency.

(D) If a debtor fails to respond to such notice of intent, fails to timely request a hearing or fails to appear at a regularly scheduled hearing, the debtor's defenses, objections or request for a payment plan or compliance with a payment plan may be determined to be without merit, and TSAC or the guarantee agency shall enter a final decision and order, requesting suspension, denial or revocation of the debtor's license or certificate and further requesting the licensing authority to order the debtor to refrain from engaging in the licensed activity or activity for which a certificate has been issued. TSAC or the guarantee agency shall send a copy of such order to the licensing authority and the debtor.

(E) All such administrative hearings shall be conducted in the same manner as those conducted pursuant to §§ 36-5-703 and 36-5-704.

(F)(i) When TSAC or the guarantee agency determines that the debt is paid in full or the debtor has entered into a payment plan or complied with a payment plan previously approved by TSAC or the guarantee agency, TSAC or the guarantee agency shall terminate the order suspending, denying or revoking the license or certificate. TSAC or the guarantee agency shall send a copy of the order terminating the suspension, denial or revocation to the licensing authority and the debtor. Notwithstanding any other provision of law, rule or regulation to the contrary, when the license or certificate is reinstated, the licensing authority shall not impose a

reinstatement fee that exceeds fifty dollars ($50.00).

(ii) Entry of an order terminating suspension, denial or revocation of a license or certificate does not limit the ability of TSAC or the guarantee agency to issue a new order suspending, denying or revoking the license or certificate of the same debtor in the event of another delinquency or default.

(G) TSAC is authorized to promulgate necessary rules and regulations in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, to implement this subsection (b).

(c) Each board, commission, committee, agency or other governmental entity created pursuant to this title shall promulgate rules and regulations to effectuate the purposes of this section.

63-1-141. Default on student loans by members of the healing arts profession. [Effective on January 1, 2019. See the version effective until January 1, 2019.]

(a)(1) Upon receiving a copy of a final order as provided in subsection (b) from the Tennessee student assistance corporation (TSAC) or a guarantee agency that has an agreement with the United States secretary of education (guarantee agency), each board, commission, committee, agency or other governmental entity (licensing authority) created pursuant to this title shall suspend, deny or revoke the license of, or take other such appropriate disciplinary action, against any person (also referred to as the debtor), who has defaulted on a repayment or service obligation under any federal family education loan program, the federal Higher Education Act of 1965, a student loan guaranteed or administered by the Tennessee student assistance corporation or any other state or federal educational loan or service-conditional scholarship program.

(2) Notwithstanding subdivision (a)(1), a licensing authority may elect not to suspend, deny, or revoke the license of a person if the default or delinquency is the result of a medical hardship that prevented the person from working in the person's licensed field and the medical hardship significantly contributed to the default or delinquency.

(b)(1) Each board, commission, committee, agency or other governmental entity created pursuant to this title shall accept any determination of default from TSAC or a guarantee agency, after TSAC or the guarantee agency has afforded a debtor an opportunity to be heard in accordance with subdivision (b)(2); and such board, commission, committee, agency or other governmental entity shall rescind any disciplinary action and restore any license or certificate upon receiving notice from such corporation or guarantee agency that the person has agreed to serve such person's obligation or is in compliance with an approved repayment plan.

(2)(A) Unless a debtor has made satisfactory arrangements according to the lender, TSAC or the guarantee agency, which may include administrative wage garnishment, voluntary payment arrangements or deferment/forbearance, then the debtor shall be regarded as delinquent or in default. If a debtor is delinquent or in default on a repayment or service obligation under a guaranteed student loan identified in subsection (a) or such debtor has failed to enter into a payment plan or comply with a payment plan previously approved by TSAC or the guarantee agency, then TSAC or the

guarantee agency shall issue to such debtor a notice of intent to file an order with the appropriate licensing authority to suspend, deny or revoke the debtor's license or certificate. The notice must:

(i) Be served upon the debtor personally or by certified mail with return receipt requested; and

(ii) State that the debtor's license or certificate will be suspended, denied or revoked ninety (90) days after service, unless within that time the debtor:

***(a)** Pays the entire debt stated in the notice;*

***(b)** Enters into a payment plan or complies with a payment plan previously entered into and approved by TSAC or the guarantee agency; or*

***(c)** Requests a hearing before TSAC or the guarantee agency.*

(B) Any such hearing request by the debtor shall be made in writing and must be received by TSAC or the guarantee agency within twenty (20) days of the date the notice is served.

(C) TSAC, or the guarantee agency, upon receipt of a request for a hearing from the debtor, shall schedule a hearing to determine whether suspension, denial or revocation of the debtor's license or certificate is appropriate. The debtor's license or certificate may not be suspended, denied or revoked until a determination is reached following the hearing. The only issues that may be determined in such hearing are:

(i) The amount of the debt, if any;

(ii) Whether the debtor is delinquent or in default;

(iii) Whether the debtor has entered into a payment plan or the debtor is willing to enter into a payment plan or to comply with a payment plan previously entered into and approved by TSAC or the guarantee agency; and

(iv) Whether the debtor's default or delinquency is the result of a medical hardship that prevented the debtor from working in the debtor's licensed field and the medical hardship significantly contributed to the default or delinquency.

(D) If a debtor fails to respond to such notice of intent, fails to timely request a hearing or fails to appear at a regularly scheduled hearing, the debtor's defenses, objections or request for a payment plan or compliance with a payment plan may be determined to be without merit, and TSAC or the guarantee agency shall enter a final decision and order, requesting suspension, denial or revocation of the debtor's license or certificate and further requesting the licensing authority to order the debtor to refrain from engaging in the licensed activity or activity for which a certificate has been issued. TSAC or the guarantee agency shall send a copy of such order to the licensing authority and the debtor.

(E) All such administrative hearings shall be conducted in the same manner as those conducted pursuant to §§ 36-5-703 and 36-5-704.

(F)(i) When TSAC or the guarantee agency determines that the debt is paid in full or the debtor has entered into a payment plan or complied with a payment plan previously approved by TSAC or the guarantee agency, TSAC or the guarantee agency shall terminate the order suspending, denying or revoking the license or certificate. TSAC or the guarantee agency shall send a copy of the order terminating the suspension, denial or revocation to the licensing authority and the debtor. Notwithstanding any

other provision of law, rule or regulation to the contrary, when the license or certificate is reinstated, the licensing authority shall not impose a reinstatement fee that exceeds fifty dollars ($50.00).

(ii) Entry of an order terminating suspension, denial or revocation of a license or certificate does not limit the ability of TSAC or the guarantee agency to issue a new order suspending, denying or revoking the license or certificate of the same debtor in the event of another delinquency or default.

(G) TSAC is authorized to promulgate necessary rules and regulations in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, to implement this subsection (b).

(c) Each board, commission, committee, agency or other governmental entity created pursuant to this title shall promulgate rules and regulations to effectuate the purposes of this section.

63-1-150. Patient safety and quality improvement.

(a) This section shall not apply to §§ 63-4-118, 63-5-131, 63-10-402 — 63-10-405, 63-11-220, 63-12-138 and 68-11-272.

(b) It is the policy of this state to encourage the improvement of patient safety and quality and the evaluation of the quality, safety, cost, processes and necessity of healthcare services by healthcare providers and by other entities. This state further recognizes that certain protections must be available to these providers and entities to ensure that they are able to effectively pursue these measures.

(c) As used in this section:

(1) "Healthcare organization" means any:

(A) State or local health professional association or society;

(B) Professional assistance program providing, or attempting to provide, intervention, counseling, referral or other assistance to any healthcare provider or family of a healthcare provider directly related to and including the alcohol or drug impairment of a healthcare provider;

(C) Healthcare provider malpractice support group;

(D) Group practice that is engaged in the provision of healthcare services;

(E) Entity engaged in the provision of healthcare provider services or healthcare provider staffing to licensed healthcare entities, including hospitals;

(F) Professional healthcare foundation;

(G) Individual practice association made up of practices the members of which are engaged in the provision of health care;

(H) Health maintenance organization, preferred provider organization, hospital and medical service corporation, or accountable care organization as defined by § 3022 of the federal Patient Protection and Affordable Care Act, P.L. 111-148, as amended;

(I) Entity that contracts with a healthcare organization to perform any of the functions of a quality improvement committee;

(J) Any patient safety organization listed as such by the federal secretary of health and human services pursuant to § 924 of the Patient Safety and Quality Improvement Act of 2005, P.L. 109-41, as amended;

(K) University medical school or health science center; or

(L) Community mental health center as defined in § 33-1-101;

(2) "Healthcare provider" means any healthcare professional licensed, authorized, certified or regulated under this title, including, but not limited to, medical resident physicians, interns, and fellows participating in a training program of one (1) of the accredited medical schools or of one (1) of such medical school's affiliated teaching hospitals in this state, or any other clinical staff of a healthcare organization;

(3) "Quality improvement committee" or "QIC" means a committee formed or retained by a healthcare organization, an activity of a healthcare organization, or one (1) or more individuals employed by a healthcare organization performing the types of functions listed in subdivisions (c)(3)(A)-(P), the purpose of which, or one (1) of the purposes of which is to evaluate the safety, quality, processes, costs, appropriateness, or necessity of healthcare services by performing functions, including, but not limited to:

(A) Evaluation and improvement of the quality of healthcare services rendered;

(B) Determination that health services rendered were professionally indicated or were performed in compliance with applicable standards of care;

(C) Determination that the cost of health care rendered was considered reasonable;

(D) Evaluation of the qualifications, credentials, competence and performance of healthcare providers or action upon matters relating to the discipline of any individual healthcare provider;

(E) Reduction of morbidity or mortality;

(F) Establishment and enforcement of guidelines designed to keep the cost of health care within reasonable bounds;

(G) Research;

(H) Evaluation of whether facilities are being properly utilized;

(I) Supervision, education, discipline, admission, and the determination of privileges of healthcare providers;

(J) Review of professional qualifications or activities of healthcare providers;

(K) Evaluation of the quantity, quality and timeliness of healthcare services rendered to patients;

(L) Evaluation, review or improvement of methods, procedures or treatments being utilized;

(M) Intervention, support or rehabilitative referrals or services to healthcare providers;

(N) Evaluation as to whether to report an unusual incident pursuant to § 63-6-221 or § 63-9-117 or to evaluate and improve the quality of health care rendered by healthcare providers related to the submission of an unusual incident report;

(O) Activities to determine the healthcare organization's compliance with state or federal regulations; or

(P) Participation in utilization review activities, including participation in review activities within the healthcare organization and activities in conjunction with an insurer or utilization review agent under title 56, chapter 6, part 7; and

(4) "Records" means records of interviews and all reports, incident reports, statements, minutes, memoranda, charts, statistics, evaluations, critiques, test results, corrective actions, disciplinary actions and any and all

other documentation generated in connection with the activities of a QIC.

(d)(1) Records of a QIC and testimony or statements by a healthcare organization's officers or directors, trustees, healthcare providers, administrative staff, employees or other committee members or attendees relating to activities of the QIC shall be confidential and privileged and shall be protected from direct or indirect means of discovery, subpoena or admission into evidence in any judicial or administrative proceeding. Any person who supplies information, testifies or makes statements as part of a QIC may not be required to provide information as to the information, testimony or statements provided to or made before such a committee or opinions formed by such person as a result of committee participation.

(2) Any information, documents or records, which are not produced for use by a QIC or which are not produced by persons acting on behalf of a QIC, and are otherwise available from original sources, shall not be construed as immune from discovery or use in any judicial or administrative proceedings merely because such information, documents or records were presented during proceedings of such committee.

(3) A QIC may share information and documents, including complaints, incident reports, and testimony and statements by any person to the QIC, with one (1) or more other QICs as defined under this section or under § 68-11-272. Information and documents disclosed by one (1) QIC to another QIC, and any information and documents created or maintained as a result of the sharing of such information and documents, shall be confidential, privileged and protected from direct or indirect means of discovery, subpoena or admission into evidence, to the same extent as provided in subdivision (d)(1). The QIC sharing such information with another QIC shall determine the manner and process by which it will share such information and documents, which process may include requiring a written agreement between QICs regarding the sharing of practitioner information. The QIC and its sponsoring healthcare organization shall not be held liable and are immune from suit for any disclosure or sharing of information in compliance with this section.

(e) No healthcare organization or its officers, trustees, directors, healthcare providers, administrative staff, employees, other committee members or attendees, or any person providing information to a QIC shall be held liable:

(1) In any action for damages or other relief and is immune from liability arising from the provision of information to a QIC or in any judicial or administrative proceeding if the information is provided to the QIC in good faith and without malice and on the basis of facts reasonably known or reasonably believed to exist; or

(2) In any action for damages or other relief and is immune from liability resulting from any decisions, opinions, actions, and proceedings rendered, entered or acted upon by a QIC undertaken or performed within the scope or function of the duties of such committees or in any judicial or administrative proceeding, if made or taken in good faith and without malice and on the basis of facts reasonably known or reasonably believed to exist.

(f) A professional assistance program also advocates for healthcare professionals before other QICs, healthcare entities, private and governmental insurance carriers, national or local certification and accreditation bodies, and the state health-related boards of this or any other state. The disclosure of confidential, privileged QIC information to such entities during advocacy or as a report to the health-related boards, or to the affected healthcare provider

under review, does not constitute either a waiver of confidentiality or privilege.

(g) Any person providing information to a QIC is presumed to have acted in good faith and without malice. Any person alleging lack of good faith has the burden of proving bad faith and malice.

(h) All decisions, opinions, actions and proceedings rendered, entered or acted upon by a QIC are presumed to have been completed in good faith and without malice. Any person alleging lack of good faith has the burden of proving bad faith and malice.

63-1-159. Prohibited offer or payment, or offer or solicitation, of commission for referral of patient or patronage with respect to alcohol or drug services.

(a) A healthcare provider licensed under this title, with respect to alcohol and drug services, as defined in § 33-2-402, shall not knowingly:

(1) Offer or pay a commission, benefit, rebate, kickback, or bribe, directly or indirectly, in cash or in kind, or engage in any split-fee arrangement, in any form whatsoever, to induce the referral of a patient or patronage to or from a licensee or facility licensed under title 33, chapter 2, part 4;

(2) Solicit or receive a commission, benefit, rebate, kickback, or bribe, directly or indirectly, in cash or in kind, or engage in any split-fee arrangement, in any form whatsoever, in return for referring a patient or patronage to or from a licensee or facility licensed under title 33, chapter 2, part 4;

(3) Solicit or receive a commission, benefit, rebate, kickback, or bribe, directly or indirectly, in cash or in kind, or engage in any split-fee arrangement, in any form whatsoever, in return for the acceptance or acknowledgment of treatment from a licensee or facility licensed under title 33, chapter 2, part 4; or

(4) Aid, abet, advise, or otherwise participate in the conduct prohibited under subdivision (a)(1), (a)(2), or (a)(3).

(b) Any healthcare provider licensed under this title, with respect to alcohol and drug services, that violates this section is subject to suspension or revocation of the healthcare provider's license by the appropriate healthcare licensing board and the imposition of civil penalties as authorized under this title.

63-1-160. Prescription for Schedule ll controlled substance — Electronic prescription — Exceptions. [Effective on January 1, 2019.]

(a) As used in this section, "electronic prescription" means a written prescription that is generated on an electronic application and is transmitted in accordance with 21 CFR Part 1311.

(b) Subject to subsection (c), any written, printed, or electronic prescription order for a Schedule II controlled substance prepared by a health care prescriber who is authorized by law to prescribe a drug must be legibly printed, entered, or typed as a separate prescription order. The written, printed, or electronic prescription order must contain all information otherwise required by law. The health care prescriber must sign the written, printed, or electronic prescription order on the day it is issued. Nothing in this section shall be construed to prevent a health care prescriber from issuing a verbal prescription order.

(c) Subject to subsection (d) of this section, on or after January 1, 2020, any

prescription for a Schedule II controlled substance shall be issued as an electronic prescription from the person issuing the prescription to a pharmacy. The name, address, and telephone number of the collaborating physician of an advanced practice registered nurse or physician assistant shall be included on the electronic prescription.

(d) Subsection (c) does not apply to prescriptions:

(1) Issued by veterinarians;

(2) Issued in circumstances where electronic prescribing is not available due to technological or electrical failure, as set forth in rule;

(3) Issued by a health care prescriber to be dispensed by a pharmacy located outside the state, as set forth in rule;

(4) Issued when the health care prescriber and dispenser are the same entity;

(5) Issued while including elements that are not supported by the most recently implemented version of the National Council for Prescription Drug Programs Prescriber/Pharmacist Interface SCRIPT Standard;

(6) Issued by a health care prescriber for a drug that the federal food and drug administration (FDA) requires the prescription to contain certain elements that are not able to be accomplished with electronic prescribing;

(7) Issued by a health care prescriber allowing for the dispensing of a non-patient-specific prescription pursuant to a standing order, approved protocol for drug therapy, collaborative pharmacy practice agreement in response to a public health emergency, or in other circumstances where the health care prescriber may issue a non-patient-specific prescription;

(8) Issued by a health care prescriber prescribing a drug under a research protocol;

(9) Issued by a health care prescriber who has received a waiver or a renewed waiver for a specified period determined by the commissioner of health, not to exceed one (1) year without renewal by the commissioner, from the requirement to use electronic prescribing, pursuant to a process established in rule by the commissioner, due to economic hardship, technological limitations that are not reasonably within the control of the health care prescriber, or other exceptional circumstance demonstrated by the health care prescriber;

(10) Issued by a health care prescriber under circumstances where, notwithstanding the health care prescriber's present ability to make an electronic prescription as required by this subsection (a), the health care prescriber reasonably determines that it would be impractical for the patient to obtain substances prescribed by electronic prescription in a timely manner, and such delay would adversely impact the patient's medical condition;

(11) Issued by a health care prescriber who issues fifty (50) or fewer prescriptions for Schedule II controlled substances per year.

(e) A pharmacist who receives a written, oral, or faxed prescription is not required to verify with the health care prescriber that the prescription properly falls under one (1) of the exceptions from the requirement to electronically prescribe in subsection (d). Pharmacists may continue to dispense medications from otherwise valid written, oral, or fax prescriptions that are consistent with § 53-11-308.

(f) The commissioner of health shall refer individual health care prescribers who violate this section to the health care prescriber's licensing board, and for such violation in this section, the health care prescriber is subject to penalties

under § 63-1-134.

(g) Any health-related board under § 68-1-101(a)(8) that is affected by this section, shall report to the general assembly by January 1, 2019, on issues related to the implementation of this section.

63-1-161. Waiver of initial licensure fees for low-income persons. [Effective January 1, 2019.]

(a) As used in this section:

(1) "Licensing" means the procedure through which the privilege to engage in a specific profession regulated under this title is granted by a licensing authority;

(2) "Licensing authority" means any state agency with the authority to impose training, education, or licensure fees to practice in a profession;

(3) "Licensure fee" means a fee imposed by a licensing authority on persons licensed to practice a profession for the privilege of providing goods or services;

(4) "Low-income persons" means persons who are enrolled in a state or federal public assistance program, including, but not limited to, temporary assistance for needy families (TANF), medicaid, or supplemental nutrition assistance program (SNAP); and

(5) "State agency" means a state board, agency, or commission attached to the division of health related boards, as listed in § 68-1-101(a)(8).

(b)(1) Any licensing authority that requires a license for persons to practice in a profession shall waive all initial licensure fees for low-income persons.

(2) Persons seeking a waiver of initial licensure fee requirements shall apply to the appropriate licensing authority in a format prescribed by the authority.

(3) All licensing authorities to which this section applies shall promulgate rules to effectuate the purposes of this section. The rules shall be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

63-1-162. Task force to create minimum disciplinary action for healthcare practitioner who deviates from sound medical judgment in treatment of patient with an opioid. [Effective until July 1, 2023.]

(a) If a healthcare practitioner treats a human patient with an opioid and that healthcare practitioner's licensing board or agency finds that the healthcare practitioner engaged in a significant deviation or pattern of deviation from sound medical judgment, the minimum disciplinary action that a healthcare practitioner's licensing board or committee must take shall be established and promulgated by rule by a task force composed of representatives from:

(1) The board of medical examiners;

(2) The board of osteopathic examination;

(3) The board of dentistry;

(4) The board of podiatric medical examiners;

(5) The board of optometry;

(6) The board of nursing; and

(7) The board of medical examiners' committee on physician assistants.

(b) The task force must create a uniform minimum disciplinary action pursuant to this section, which shall be binding on each board and committee

listed in subsection (a).

(c) The task force is authorized to establish minimum disciplinary actions pursuant to this section by emergency rule in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5. The rule promulgated by the task force shall be codified and published by the secretary of state in each of the chapters for the boards and committee listed in subsection (a).

(d)(1) Each board and committee listed in subsection (a) must select and appoint by majority vote one (1) member of their respective board or committee to serve on the task force before September 1, 2018.

(2) The task force shall select and appoint a member to serve as chair of the task force.

(3) A majority of the task force shall constitute a quorum, and a majority vote of the task force members present is required for any action.

(4) Notwithstanding any provision of the Uniform Administrative Procedures Act to the contrary, the task force shall hear public comment at any required hearing on behalf of all boards listed in subsection (a) when a hearing is required. The task force is authorized to vote to promulgate the rule to establish the uniform minimum disciplinary action for each board and committee listed in subsection (a).

(e) In the event that the task force has not promulgated uniform minimum disciplinary actions by April 1, 2019, then the minimum disciplinary action that a healthcare practitioner's licensing board or agency must take is a removal of the healthcare practitioner's right to prescribe controlled substances for no less than five (5) years.

(f) The task force shall terminate upon the later of July 1, 2019, or the effective date of a permanent rule establishing the uniform minimum disciplinary action pursuant to this section. The procedures of this section must be followed to amend, repeal, or otherwise revise the uniform minimum disciplinary action established pursuant to this section. In such case, the task force may be reconvened by the commissioner of health or a majority of the boards and committees listed in subsection (a).

(g) Nothing in this part shall be construed to prohibit the licensing boards and committee listed in subsection (a) from promulgating rules regarding other minimum disciplinary actions that will be taken against their licensees.

63-1-163. Partial fill for prescription for controlled substance — Partial fill for opioid.

(a) As used in this section:

(1) "Original prescription" means a prescription for a controlled substance from an authorized prescriber that is presented by the patient to the pharmacist or submitted electronically to the pharmacy; and

(2) "Partial fill" means a prescription filled in a lesser quantity than the amount specified on the prescription for the patient.

(b)(1) A prescription for a controlled substance may be partially filled if:

(A) The partial fill is requested by the patient or the practitioner who wrote the prescription; and

(B) The total quantity dispensed through partial fills pursuant to subdivision (b)(1)(A) does not exceed the total quantity prescribed for the original prescription.

(2) If a partial fill is made, the pharmacist shall retain the original prescription at the pharmacy where the prescription was first presented and the partial fill dispensed.

(3) Any subsequent fill shall occur at the pharmacy that initially dispensed the partial fill. Any subsequent fill shall be filled within thirty (30) days from issuance of the original prescription.

(c)(1) If a partial fill is dispensed, the pharmacist shall only record in the controlled substance database the partial fill amount actually dispensed.

(2) If a partial fill is dispensed, the pharmacist shall notify the prescribing practitioner of the partial fill and of the amount actually dispensed:

(A) Through a notation in the interoperable electronic health record of the patient;

(B) Through submission of information to the controlled substance database;

(C) By electronic or facsimile transmission; or

(D) Through a notation in the patient's record that is maintained by the pharmacy, and that is accessible to the practitioner upon request.

(3) Nothing in this section shall be construed to conflict with or supersede any other requirement established in this part or title 53, chapter 10 or 11, for a prescription of a controlled substance.

(d) **[Effective January 1, 2019.]**

(1) A person who presents a prescription for a partial fill for an opioid pursuant to this section is required to pay the prorated portion of cost sharing and copayments.

(2) A pharmacist or pharmacy is authorized to charge a dispensing fee to cover the actual supply and labor costs associated with the dispensing of the original prescription of an opioid and each partial fill associated with the original prescription.

(3) Any cost sharing, copayment, dispensing fee, or any portion thereof, made to a pharmacist or pharmacy for the dispensing of a partial fill of an opioid shall not be considered an overpayment.

(4) A health insurance issuer or pharmacy benefits manager shall not utilize partial fills of an opioid to reduce payments to a pharmacist or pharmacy for dispensing multiple partial fills.

(e) **[Effective July 1, 2019.]**

(1) A person who presents a prescription for a partial fill pursuant to this section for a controlled substance other than an opioid is required to pay the prorated portion of cost sharing and copayments.

(2) A pharmacist or pharmacy is authorized to charge a dispensing fee to cover the actual supply and labor costs associated with the dispensing of the original prescription of a controlled substance other than an opioid and each partial fill associated with the original prescription.

(3) Any cost sharing, copayment, dispensing fee, or any portion thereof, made to a pharmacist or pharmacy for the dispensing of a partial fill of a controlled substance other than an opioid shall not be considered an overpayment.

(4) A health insurance issuer or pharmacy benefits manager shall not utilize partial fills of a controlled substance other than an opioid to reduce payments to a pharmacist or pharmacy for dispensing multiple partial fills.

63-1-164. Restrictions and limitations on treating patient with opioids. [Effective until July 1, 2023.]

(a) As used in this section:

(1) "Encounter" means a single visit where an opioid is administered or an opioid prescription is issued or dispensed;

(2) "Healthcare practitioner" means a person licensed under this title who has the authority to prescribe or dispense controlled substances in the course of professional practice;

(3) "ICD-10 code" means the code established in the International Classification of Diseases, Tenth Revision, Clinical Modification (ICD-10-CM) adopted by the federal centers for medicare and medicaid services, or the code used in any successor classification system adopted by the federal centers for medicare and medicaid services, that corresponds to the diagnosis of the condition being treated;

(4)(A) "Informed consent" means consent voluntarily given in writing by the patient or the patient's legal representative after sufficient explanation and disclosure by the healthcare practitioner of the subject matter involved to enable the person whose consent is sought to make a knowing and willful decision. This explanation and disclosure by the healthcare practitioner to the patient or the patient's legal representative before consent may be obtained must include, at a minimum:

(i) Adequate information to allow the patient or the patient's legal representative to understand:

(a) The risks, effects, and characteristics of opioids, including the risks of physical dependency and addiction, misuse, and diversion;

(b) What to expect when taking an opioid and how opioids should be used; and

(c) Reasonable alternatives to opioids for treating or managing the patient's condition or symptoms and the benefits and risks of the alternative treatments;

(ii) A reasonable opportunity for questions by the patient or patient's legal representative;

(iii) Discussion and consideration by the patient or the patient's legal representative and the healthcare practitioner of whether the patient should take an opioid medication; and

(iv) If the patient is a woman of childbearing age and ability, information regarding neonatal abstinence syndrome and specific information regarding how to access contraceptive services in the community. For purposes of this section, childbearing age is between the ages of fifteen (15) and forty-four (44);

(B) Nothing in subdivision (a)(4)(A) limits other requirements imposed on healthcare practitioners by law or applicable licensing authority;

(5) "Morphine milligram equivalent dose" means the morphine milligram equivalent calculation for the amount of a prescribed opioid, multiplied by the days of treatment; and

(6) "Treat" means prescribe, dispense, or administer.

(b) Except as provided in this section, a healthcare practitioner shall not treat a patient with more than a three-day supply of an opioid and shall not treat a patient with an opioid dosage that exceeds a total of a one hundred eighty (180) morphine milligram equivalent dose.

(c)(1) A patient shall not be treated with an opioid more frequently than every ten (10) days; provided, however, that if the patient has an adverse reaction to an opioid, a healthcare practitioner may treat a patient with a different opioid within a ten-day period under the following circumstances:

(A) The healthcare practitioner is employed by the same practice that initially treated the patient with the opioid that caused the adverse reaction;

(B) The healthcare practitioner personally evaluates the patient, assesses the patient's adverse reaction, and determines a different course of treatment is more medically appropriate;

(C) The healthcare practitioner confirms with the dispenser that the remainder of the initial prescription has been cancelled by the dispenser;

(D) The healthcare practitioner counsels the patient to appropriately destroy any remaining opioids that were previously dispensed to the patient; and

(E) The healthcare practitioner's treatment of the patient conforms to the requirements of this section.

(2)(A) Notwithstanding subdivision (c)(1), where the treatment provided by a healthcare practitioner is dispensing an opioid, the healthcare practitioner may treat a patient more than once within ten (10) days; provided, that the healthcare practitioner shall not dispense an opioid in an amount that exceeds the greater of:

(i) A five-day supply per encounter; or

(ii) Half of the total prescribed amount.

(B) The healthcare practitioner may dispense the remainder in a subsequent encounter.

(C) The partial fill requirements of this subdivision (c)(2) shall not be mandatory prior to January 1, 2019, for a dispenser who has not updated the dispenser's software system.

(d)(1)(A) A healthcare practitioner may treat a patient with more than a three-day supply of an opioid if the healthcare practitioner treats the patient with no more than one (1) prescription for an opioid per encounter and:

(i) Personally conducts a thorough evaluation of the patient;

(ii) Documents consideration of non-opioid and non-pharmacologic pain management strategies and why the strategies failed or were not attempted;

(iii) Includes the ICD-10 code for the primary disease in the patient's chart, and on the prescription when a prescription is issued; and

(iv) Obtains informed consent and documents the reason for treating with an opioid in the chart.

(B) A healthcare practitioner who is dispensing pursuant to a prescription written by another healthcare practitioner for more than a three-day supply of an opioid is not required to satisfy subdivisions (d)(1)(A)(i)-(iv) when filling a prescription that contains an ICD-10 code; provided, that the healthcare practitioner shall not dispense more than one (1) prescription for an opioid to a patient per encounter.

(2) If a healthcare practitioner treats a patient with more than a three-day supply of an opioid, the healthcare practitioner may treat the patient with no more than a ten-day supply and with a dosage that does not exceed a total of a five hundred (500) morphine milligram equivalent dose.

(3) Notwithstanding subdivision (d)(2), in rare cases where the patient has a condition that will be treated by a procedure that is more than minimally invasive and sound medical judgment would determine the risk of adverse effects from the pain exceeds the risk of the development of a substance use disorder or overdose event, a healthcare practitioner may treat a patient with up to a twenty-day supply of an opioid and with a dosage that does not exceed a total of an eight hundred fifty (850) morphine milligram equivalent dose.

(4) Notwithstanding subdivision (d)(2), in rare cases after trial and failure of reasonable, appropriate, and available non-opioid treatments for the pain condition or documenting the contraindication, inefficacy, or intolerance of non-opioid treatments, where medical necessity and sound medical judgment would determine the risk of adverse effects from the pain exceeds the risk of the development of a substance use disorder or overdose event, a healthcare practitioner may treat a patient with up to a thirty-day supply of an opioid and with a dosage that does not exceed a total of a one thousand two hundred (1,200) morphine milligram equivalent dose. The healthcare practitioner must include the phrase "medical necessity" on the prescription for any prescription issued pursuant to this subdivision (d)(4).

(e) The restrictions of this section do not apply to the following; provided, that where a prescription is issued pursuant to this subsection (e), the prescription contains the ICD-10 code for the primary disease documented in the patient's chart and the word "exempt":

(1) The treatment of patients who are undergoing active or palliative cancer treatment or who are receiving hospice care;

(2) The treatment of patients with a diagnosis of sickle cell disease;

(3) The administration of opioids directly to a patient during the patient's treatment at any facility licensed under title 68, chapter 11, or any hospital licensed under title 33, chapter 2, part 4;

(4) Prescriptions issued by healthcare practitioners who are:

(A) Pain management specialists, as that term is defined in § 63-1-301, or who are collaborating with a pain management specialist in accordance with § 63-1-306(a)(3); provided, that the patient receiving the prescription is personally assessed by the pain management specialist, or by the advanced practice registered nurse or physician assistant collaborating with the pain management specialist; or

(B) Treating patients in an outpatient setting of a hospital exempt under § 63-1-302(2) that holds itself out to the public as a pain management clinic.

(5) The treatment of patients who have been treated with an opioid daily for ninety (90) days or more during the three hundred sixty-five (365) days prior to April 15, 2018, or those who are subsequently treated for ninety (90) days or more under one (1) of the exceptions listed in subdivision (d)(4) or this subsection (e);

(6) The direct administration of, or dispensing of, methadone for the treatment of an opioid use disorder to a patient who is receiving treatment from a healthcare practitioner practicing under 21 U.S.C. § 823(g)(1);

(7) The treatment of a patient for opioid use disorder with products that are approved by the U.S. food and drug administration for opioid use disorder by a healthcare practitioner under 21 U.S.C. § 823(g)(2);

(8) The treatment of a patient with a product that is an opioid antagonist

and does not contain an opioid agonist; or

(9) The treatment of a patient who has suffered a severe burn or major physical trauma, as those terms are defined by the controlled substance database committee by rule and adopted by the licensing boards created pursuant to title 63, and sound medical judgment would determine the risk of adverse effects from the pain exceeds the risk of the development of a substance use disorder or overdose event.

(f) The commissioner of health, in consultation with the regulatory boards created pursuant to this title that license healthcare practitioners, shall study and analyze the impact and effects of the restrictions and limitations set forth in this section. No later than November 1, 2021, the commissioner shall issue a report relative to the impact and effects of the restrictions and limitations to the governor, the health and welfare committee of the senate, and the health committee of the house of representatives. The report may include recommendations for revisions to the restrictions on the prescription of opioids.

(g) This section applies only to the treatment of human patients.

63-1-165. Requirements for person practicing ultrasound sonography in nonclinical 3D/4D ultrasound boutique setting. [Effective on January 1, 2019.]

Any person practicing ultrasound sonography in a nonclinical 3D/4D ultrasound boutique setting, as defined by the commissioner of health by rule pursuant to § 68-1-103(a), in this state shall be at least eighteen (18) years of age and shall be in compliance with the following requirements:

(1) Earn a minimum of a technical certificate from a sonography program accredited by the Commission on Accreditation of Allied Health Education Programs (CAAHEP) or Canadian Medical Association (CMA); and

(2)(A) Be currently certified by the American Registry for Diagnostic Medical Sonography (ARDMS) in the specialty in which they are currently practicing;

(B) Be currently certified by the American Registry of Radiologic Technologists (ARRT) in sonography;

(C) Be in the process of applying for registration with the ARDMS, provided that the applicant satisfies the requirements for registration within ninety (90) days of becoming employed as a sonographer; or

(D) Be in the process of applying for registration with the ARRT, provided that the applicant satisfies the requirements for registration within ninety (90) days of becoming employed as a sonographer.

63-1-306. Medical director — Operation certificate — Disciplinary action.

(a)(1) Each pain management clinic must have a medical director who is a medical doctor or osteopathic physician who practices in this state under an unrestricted and unencumbered license issued pursuant to § 63-6-201 or § 63-9-104.

(2) In addition to the requirements of subdivision (a)(1), each physician serving as a medical director at a pain management clinic shall be a pain management specialist.

(3)(A) All advanced practice registered nurses licensed under chapter 7 of this title, who practice in a licensed pain clinic, shall collaborate with a

pain medicine specialist.

(B) All physician assistants licensed under chapter 19 of this title who practice in a licensed pain clinic shall collaborate with a pain medicine specialist.

(b) In the event that the medical director, for whatever reason, no longer meets the requirements of this part, the pain management clinic must notify the department, in writing within ten (10) business days, of the identity of another physician who meets the requirements of this part and will act as medical director and provide all necessary documentation required by the department to establish that the replacement is qualified as required by this part. Any clinic that fails to provide such timely written notice must cease operations until the notice is provided and the department has confirmed in writing that the replacement medical director is duly qualified. Continuation of operations without the timely written notice required by this subsection (b) constitutes grounds for disciplinary action against the clinic under this part.

(c) Any board that assesses any discipline or penalty against a provider that it licenses for a violation of rules promulgated under this part shall inform the department of any penalty or discipline imposed on such a provider for a violation of rules promulgated under this part within thirty (30) days of imposing the discipline or penalty, and the department may consider such discipline or penalty as a basis for disciplinary action against the pain management clinic pursuant to this subsection (c).

(d) The pain management clinic shall post the license in a conspicuous location so as to be clearly visible to patients.

(e) The department shall have the authority to adopt rules, including emergency rules if deemed necessary, to implement this part for which the department has responsibility.

63-1-403. Nonresidential buprenorphine treatment guidelines.

(a) As used in this section:

(1) "Commissioners" means the commissioner of mental health and substance abuse services and the commissioner of health; and

(2) "Nonresidential buprenorphine treatment guidelines" means systematically developed standards to assist any practitioners authorized by the state to prescribe buprenorphine-containing products for the treatment of opioid use disorder as defined in the latest version of the Diagnostic and Statistical Manual of Mental Disorders.

(b)(1) By January 1, 2018, the commissioner of mental health and substance abuse services, in collaboration with the commissioner of health, shall develop recommended nonresidential treatment guidelines for the use of buprenorphine that can be used by prescribers in this state as a guide for caring for patients. This subsection (b) shall only apply to practitioners prescribing buprenorphine-containing products for the treatment of opioid use disorder in a nonresidential setting. The guidelines must be consistent with applicable state and federal laws.

(2) Guidelines from nationally recognized organizations, such as the American Society of Addiction Medicine, Substance Abuse and Mental Health Services Administration, and the American Board of Preventative Medicine, must serve as resources in the development of guidelines under this section.

(3) The commissioner of mental health and substance abuse services shall consult with appropriate physicians, alcohol and substance abuse counselors, and other experts to serve as resources in the development of guidelines under this section.

(c) By July 1, 2019, the commissioner of mental health and substance abuse services, in collaboration with the commissioner of health, shall revise the nonresidential buprenorphine treatment guidelines to be consistent with state and federal law and establish protocols for initiating periodic prescriber-initiated-and-led discussions with patients regarding patient readiness to taper down or taper off opioids employed in treatment. The commissioner of mental health and substance abuse services shall consult with appropriate physicians, alcohol and substance abuse counselors, and other experts to serve as resources in the development of guidelines under this subsection (c).

(d) Beginning in 2019, the commissioners shall review the nonresidential buprenorphine treatment guidelines by September 30 of each year and shall cause these guidelines to be posted on both the department of mental health and substance abuse services and the department of health's websites.

(e)(1) The commissioner of mental health and substance abuse services shall submit the nonresidential buprenorphine treatment guidelines to each health-related board that licenses any practitioner authorized by the state to prescribe buprenorphine-containing products for the treatment of an opioid use disorder as defined in the Diagnostic and Statistical Manual of Mental Disorders and to the board of pharmacy.

(2) Each board shall review the nonresidential buprenorphine treatment guidelines and determine how the nonresidential buprenorphine treatment guidelines should be used by that board's licensees.

(3) Each board shall post the nonresidential buprenorphine guidelines and standards on the licensing board's website.

(f) The commissioner of mental health and substance abuse services shall provide a copy of any guidelines developed pursuant to this section and any revision to those guidelines developed pursuant to this section to the chairs of the health committee of the house of representatives and the health and welfare committee of the senate at the time the guidelines or the revisions are posted on websites of the department of mental health and substance abuse services and the department of health.

63-1-601. Reporting suspected opiod abuse or diversion. [Effective January 1, 2019.]

(a) The department of health shall accept allegations of opioid abuse or diversion. The department shall publicize a means of reporting allegations of opioid abuse or diversion.

(b) Any entity that prescribes, dispenses, or handles opioids shall provide information to employees about reporting suspected opioid abuse or diversion. The information may be provided to each employee individually in writing, documented by the employing entity, or by posting, in a conspicuous location in a non-public area regularly used by employees, a sign at least eleven inches (11") in height and seventeen inches (17") in width stating:

NOTICE: PLEASE REPORT ANY SUSPECTED ABUSE OR DIVERSION OF OPIOIDS, OR ANY OTHER IMPROPER BEHAVIOR WITH RESPECT

TO OPIOIDS, TO THE DEPARTMENT OF HEALTH'S COMPLAINT INTAKE LINE:

[NUMBER OF INTAKE LINE]

(c) The department shall refer reports received to the appropriate health-related board or law enforcement official.

63-1-602. Protection of employees or persons who report information relative to opiod abuse or diversion. [Effective January 1, 2019.]

(a) No employee of an entity that prescribes, dispenses, or handles opioids shall be discharged or terminated solely for reporting information in good faith to the department of health.

(b) No person licensed under this title shall suffer an adverse licensure action solely for reporting information in good faith to the department of health.

(c) A person who reports information in good faith to the department of health is immune from civil liability related to the report.

63-3-101. "Podiatrist" defined — Performance of ankle surgery.

(a) Within this chapter, "podiatrist" means one who examines, diagnoses or treats, medically mechanically or surgically, the ailments of the human foot, ankle and soft tissue structures extending no higher than the distal tibial metaphyseal flair, including the use and prescribing of drugs and medications, but excluding the direct applications of general anesthesia by a podiatrist and the amputation of the foot. A podiatrist may perform Achilles tendon repair, subject to subsection (b), but may not perform surgery on Pilon fractures or tibial fractures that do not enter the ankle joint.

(b) A licensed podiatrist may perform ankle surgery only when that podiatrist meets the requirements of either subdivision (b)(1) or (b)(2):

(1) Was, prior to October 2, 1995, credentialed to perform ankle surgery by a JCAHO accredited hospital in Tennessee or JCAHO accredited ambulatory surgical treatment center in Tennessee; provided, that a podiatrist who qualifies to perform ankle surgery under this subdivision (b)(1) must, if the podiatrist wishes to continue to perform ankle surgery:

(A) Notify the board as to the hospital or ambulatory surgical treatment center at which the podiatrist was credentialed to perform ankle surgery prior to October 2, 1995;

(B) Obtain and maintain evidence of obtaining at least ten (10) hours of approved continuing education related to ankle surgery annually; and

(C) Comply with any other requirements established by the board to ensure continued proficiency in performing ankle surgery; or

(2) Has completed a surgical residency program at least twenty-four (24) months in length that has been approved by the council on podiatric medical education and is currently eligible for certification to perform reconstructive rearfoot/ankle surgery by the American Board of Podiatric Surgery; provided, that a podiatrist who qualifies to perform ankle surgery under this subdivision (b)(2) must obtain certification to perform reconstructive rearfoot/ankle surgery from the American Board of Podiatric Surgery within six (6) years of May 24, 2000, or within six (6) years of first becoming eligible for certification, whichever date is later, and may not continue to perform ankle surgery if that podiatrist has not obtained certification by the end of the

six-year period.

(c) A licensed podiatrist may perform ankle surgery only in an accredited hospital or ambulatory surgical treatment center licensed under title 68 at which the podiatrist has surgical privileges to perform ankle surgery. For purposes of this subsection (c), an accredited hospital is one that is accredited by joint commission or the American Osteopathic Association, and an accredited ambulatory surgical treatment center is one that is accredited by joint commission, Accreditation Association for Ambulatory Health Care or American Association for Accreditation of Ambulatory Surgical Facilities. A podiatrist who performs ankle surgery in an ambulatory surgical treatment center must first have surgical privileges to perform ankle surgery at a local hospital. A licensed podiatrist who performs ankle surgery must meet the same standard of care applicable to orthopedic surgeons who perform ankle surgery.

(d) Licensed podiatrists may perform nonsurgical care on the ankle without meeting the requirements of subsection (b).

(e) A licensed podiatrist may collaborate with a physician assistant or an orthopedic physician assistant licensed pursuant to chapter 19 of this title. A podiatrist collaborating with a physician assistant pursuant to this subsection (e) shall comply with the requirements of and any rules adopted pursuant to §§ 63-19-106 and 63-19-107 governing collaboration with a physician assistant. A podiatrist collaborating with an orthopedic physician assistant pursuant to this subsection (e) shall comply with the requirements of and any rules adopted pursuant to §§ 63-19-203 — 63-19-205 governing collaboration with an orthopedic physician assistant.

63-3-118. Services provided by physician assistant or orthopedic physician assistant collaborating with podiatrist.

A physician assistant collaborating with a licensed podiatrist shall not provide services that are outside of the scope of practice of a podiatrist as set forth in § 63-3-101 and may prescribe only drugs that are rational to the practice of podiatry. An orthopedic physician assistant collaborating with a licensed podiatrist shall not provide services that are outside of the scope of practice of a podiatrist as set forth in § 63-3-101.

63-3-119. Suspension or revocation of license — Enforcement.

(a) The board has the duty and authority to suspend for a specified time, within the discretion of the board or to revoke any license to practice podiatry or to otherwise discipline any licensee or refuse to grant any certificate of fitness whenever the licensee or applicant is found guilty of any of the following acts or offenses:

(1) Fraud in procuring a license or certificate;

(2) Conviction of a felony, conviction of any offense under state or federal drug laws or conviction of any offense involving moral turpitude;

(3) Habitual intoxication or personal misuse of any drugs;

(4) Immoral, unethical, unprofessional or dishonorable conduct;

(5) Solicitation by agents or persons or profiting by the acts of those representing themselves to be agents of the licensee or the certificate holder;

(6) Division of fees or agreeing to split or divide fees received for professional services with any person for bringing or referring a patient;

(7) Professional connection or association with any person, firm or corporation in any manner in an effort to avoid and circumvent this chapter or lending one's name to another for the illegal practice of podiatry by such person;

(8) Violation or attempted violation, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate this chapter or any lawful order of the board; issued pursuant thereto, or any criminal statute of this state;

(9) Giving of testimonials, directly or indirectly, concerning the supposed virtue of secret therapeutic agents or proprietary preparations, such as remedies, vaccines or other articles or materials that are offered to the public, claiming radical cure or prevention of disease by their use;

(10) Any other unprofessional or unethical conduct that may be specified by the board from time to time by means of rules and regulations duly published and promulgated by the board or the violation of any provision of this chapter;

(11) Making false statements or representations or being guilty of fraud or deceit in the practice of podiatry;

(12) Invasion of a field of practice in which the licensee is not licensed to practice or is not within the limits of the licensee's respective callings;

(13) Dispensing, prescribing or otherwise distributing any controlled substance or any other drug not in the course of professional practice or not in good faith to relieve pain and suffering, or not to cure an ailment, physical infirmity or disease;

(14) Dispensing, prescribing or otherwise distributing any controlled substance, controlled substance analogue or any other drug to any person in violation of any law of the state or of the United States;

(15) Practicing podiatry under any trade name or a name designating a given location or the name of another podiatrist or any name other than that which appears on the practitioner's license or using any title other than "podiatrist"; provided, that "foot specialist" may be used as an explanatory term of the title "podiatrist" and not alone or as a substitute for the title "podiatrist";

(16) Willful violation of the rules and regulations that may be promulgated by the board of podiatric medical examiners to regulate advertising by practitioners who are under the jurisdiction of the board;

(17) Making or signing in one's professional capacity any certificate that is known to be false at the time one makes or signs such certificate;

(18) Engaging in the practice of podiatry when mentally or physically unable to safely do so; or

(19) Gross health care liability or a pattern of continued or repeated health care liability, ignorance, negligence or incompetence in the course of the practice of podiatry.

(b) The board of podiatric medical examiners may adopt rules and regulations to regulate the nature, manner, content and extent of advertising by practitioners who are under the jurisdiction of the board. All methods must be allowed such as: newspaper, radio and television.

(c)(1) For purposes of enforcement of this section, the board shall, upon probable cause, have authority to compel an applicant or licensee to submit to a mental and/or physical examination by a designated committee of at least three (3) practicing physicians, including a psychiatrist where a

question of mental condition may be involved.

(2) The applicant or licensee shall have the right to have an independent medical practitioner present during such examination and to have an independent physical or mental examination, the report of which shall be filed with the board for consideration.

(3) The committee will submit a report of its findings to the board, which will then hold a hearing as provided in § 63-3-120.

(d) An action taken under this section shall be subject to the applicable provisions of the Fresh Start Act that are compiled in chapter 1, part 1 of this title.

63-3-128. Prescriptions for Schedule II controlled substances. [Effective until January 1, 2019. See the Compiler's Notes.]

Any written, printed or computer-generated order for a Schedule II controlled substance prepared by a podiatrist who is authorized by law to prescribe a drug must be written legibly, printed or computer-generated as a separate prescription order. The written, printed or computer-generated order must contain all information otherwise required by law. The prescribing podiatrist must sign the written, printed or computer-generated order on the day it is issued.

63-3-204. Powers of the board.

(a) The board shall have the power to:

(1) Deny, restrict or condition a license;

(2) Permanently or temporarily withhold issuance of a license;

(3) Suspend, limit or restrict a previously issued license, for such time and in such manner as the board may determine;

(4) Reprimand, suspend, revoke or take such other disciplinary action in relation to an applicant or license holder as the board, in its discretion, may deem proper; or

(5) Permanently revoke a license.

(b) The grounds upon which the board shall exercise such power include, but are not limited to, circumstances in which the person:

(1) Is guilty of fraud or deceit in the procurement or holding of the license;

(2) Has been convicted of a felony in a court of competent jurisdiction, either within or outside of this state, unless the conviction has been reversed and the holder of the license discharged or acquitted or if the holder has been pardoned with full restoration of civil rights, in which case the license shall be restored;

(3) Is or has been afflicted with any medical problem, disability or addiction that, in the opinion of the board, would impair professional competence;

(4) Has knowingly aided and abetted a person who is not a license holder or is not otherwise authorized pursuant to this chapter to perform the duties of a license holder under this chapter;

(5) Has undertaken or engaged in any practice beyond the scope of duties permitted a license holder under this chapter;

(6) Has impersonated a license holder or former license holder or is under an assumed name performing the duties authorized to be performed only by a licensed person;

(7) Has been found guilty of violations of a code of ethics, which the board shall establish by regulation;

(8) Is or has been found guilty of incompetence or negligence in performance as a license holder;

(9) Acts in a manner unprofessional, dishonorable or unethical or has been found guilty of unprofessional, dishonorable or unethical conduct;

(10) Violates, or attempts to violate, directly or indirectly, or assists or aids in the violation of, or conspires to violate, any provision of this chapter or any lawful order of the board issued pursuant to this chapter or any of the rules or regulations promulgated pursuant to this chapter, or any criminal statute of the state;

(11) Is habitually intoxicated or engages in personal misuse of any drugs or the use of intoxicating liquors, narcotics, controlled substances, controlled substance analogues or other drugs or stimulants in such manner as to adversely affect the person's ability to practice; or

(12) Has received disciplinary action from another state or territory of the United States that has licensed or certified the person to practice in that state for any acts or omissions that would constitute grounds for discipline of a person licensed in this state. A certified copy of the initial or final order, or other equivalent document memorializing the disciplinary action from the disciplining state or territory, shall constitute prima facie evidence of violation of this section and shall be sufficient grounds upon which to deny, restrict or condition licensure or renewal or to discipline a person licensed in this state.

(c) An action taken under this section shall be subject to the applicable provisions of the Fresh Start Act that are compiled in chapter 1, part 1 of this title.

63-4-114. Denial, suspension or revocation of license or certificate.

(a) The board has the duty and authority to suspend for a specified time, within the discretion of the board, or to revoke any license to practice chiropractic, or to otherwise discipline any licensee or refuse to grant any certificate of fitness, whenever the licensee or applicant is found guilty of any of the following acts or offenses:

(1) Fraud in procuring a license or certificate;

(2) Conviction of a felony for violations of any law of the state or of the United States;

(3) Habitual intoxication or personal misuse of any drugs or the use of intoxicating liquors, narcotics, controlled substances, controlled substance analogues or other drugs or stimulants in such manner as to adversely affect the person's ability to practice chiropractic;

(4) Immoral, unethical, unprofessional or dishonorable conduct;

(5)(A) In-person solicitation, telemarketing, or telephonic solicitation by licensees, employees of licensees, agents of licensees, or independent contractors of licensees to victims of an accident or disaster, unless it is a victim with whom a licensee has a family or prior professional relationship, shall be considered unethical if carried out within thirty (30) days of the accident or disaster;

(B) Telemarketing transcripts shall be maintained for a period of two (2) years following their utilization;

(C) A log of contacts shall be maintained for a period of two (2) years following a telemarketing encounter; and

(D) This subdivision (5) shall not prohibit solicitation by targeted direct mail advertising or other forms of written, radio, or television advertising; provided, that the advertising does not involve coercion, duress, or harassment and is not false, deceptive, or misleading;

(6) Division of fees or agreeing to split or divide fees received for professional services with any person for bringing or referring a patient;

(7) Professional connection or association with any person, firm or corporation in any manner in an effort to avoid and circumvent this chapter or lending one's name to another for the illegal practice of chiropractic by such person;

(8) Rebating or offering to rebate to an insured any payment by the insured's third-party payor to the licensee for services or treatments rendered under the insured's policy;

(9) Submitting to any third-party payor a claim for a service or treatment at an inflated fee or charge or a greater fee or charge than the usual fee the licensee charges for that service or treatment when the service or treatment is rendered without third-party reimbursement;

(10) Submitting to any third-party payor a claim for a service or treatment at a fee or charge in an amount greater than that advertised for such service or treatment at the time of the rendering of the service or treatment that is the subject matter of the claim;

(11) Knowingly or purposefully incorrectly reporting services rendered, reporting incorrect treatment dates or reporting charges for services not rendered for the purpose of obtaining payment from a third-party payor;

(12) Any other unprofessional or unethical conduct that may be specified by the board from time to time by means of rules and regulations duly published and promulgated by the board or the violation of any provision of this chapter;

(13) The advertising of chiropractic business in which untrue or misleading statements are made or causing the publication or circulation of fraudulent advertising relative to any disease, human ailment or condition;

(14) Invasion of a field of practice in which the licensee is not licensed to practice or is not within the limits of the licensee's respective callings as determined by the board;

(15) Gross health care liability or a pattern of continued or repeated health care liability, ignorance, negligence or incompetence in the course of chiropractic practice; and

(16) Making false, fraudulent, misleading, extravagant or grossly improbable claims or statements as to the efficacy or value of the science or practice of chiropractic.

(b) An action taken under this section shall be subject to the applicable provisions of the Fresh Start Act that are compiled in chapter 1, part 1 of this title.

63-5-122. Drug prescriptions. [Effective until January 1, 2019. See the version effective on January 1, 2019.]

(a) Licensed dentists of this state may dispense, prescribe or otherwise distribute drugs rational to the practice of dentistry, and any prescriptions

shall be written in accordance with state and federal drug laws.

(b) Licensed pharmacists of this state may fill prescriptions of licensed dentists of this state for any drug necessary or proper to the practice of dentistry.

(c) Any handwritten prescription order for a drug prepared by a dentist who is authorized by law to prescribe a drug must be legible so that it is comprehensible by the pharmacist who fills the prescription. The handwritten prescription order must contain the name of the prescribing dentist, the name and strength of the drug prescribed, the quantity of the drug prescribed, handwritten in letters or in numerals, instructions for the proper use of the drug, and the month and day that the prescription order was issued, recorded in letters or in numerals or a combination thereof. The prescribing dentist must sign the handwritten prescription order on the day it is issued, unless it is a standing order issued in a hospital, a nursing home or an assisted care living facility as defined in § 68-11-201.

(d) Any typed or computer-generated prescription order for a drug issued by a dentist who is authorized by law to prescribe a drug must be legible so that it is comprehensible by the pharmacist who fills the prescription order. The typed or computer generated prescription order must contain the name of the prescribing dentist, the name and strength of the drug prescribed, the quantity of the drug prescribed, recorded in letters or in numerals, instructions for the proper use of the drug, and the month and day that the typed or computer generated prescription order was issued, recorded in letters or in numerals or a combination thereof. The prescribing dentist must sign the typed or computer generated prescription order on the day it is issued, unless it is a standing order issued in a hospital, nursing home or an assisted care living facility as defined in § 68-11-201.

(e) Nothing in this section shall be construed to prevent a dentist from issuing a verbal prescription order.

(f)(1) All handwritten, typed or computer-generated prescription orders must be issued on either tamper-resistant prescription paper or printed utilizing a technology that results in a tamper-resistant prescription that meets the current centers for medicare and medicaid service guidance to state medicaid directors regarding § 7002(b) of the United States Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act of 2007, P.L. 110-28, and meets or exceeds specific TennCare requirements for tamper-resistant prescriptions.

(2) Subdivision (f)(1) shall not apply to prescriptions written for inpatients of a hospital, outpatients of a hospital where the doctor or other person authorized to write prescriptions writes the order into the hospital medical record and then the order is given directly to the hospital pharmacy and the patient never has the opportunity to handle the written order, a nursing home or an assisted care living facility as defined in § 68-11-201 or inpatients or residents of a mental health hospital or residential facility licensed under title 33 or individuals incarcerated in a local, state or federal correctional facility.

(g) Any written, printed or computer-generated order for a Schedule II controlled substance prepared by a dentist who is authorized by law to prescribe a drug must be legibly printed or typed as a separate prescription order. The written, printed or computer-generated order must contain all information otherwise required by law. The prescribing dentist must sign the written, printed or computer-generated order on the day it is issued.

63-5-122. Drug prescriptions. [Effective on January 1, 2019. See the version effective until January 1, 2019.]

(a) Licensed dentists of this state may dispense, prescribe or otherwise distribute drugs rational to the practice of dentistry, and any prescriptions shall be written in accordance with state and federal drug laws.

(b) Licensed pharmacists of this state may fill prescriptions of licensed dentists of this state for any drug necessary or proper to the practice of dentistry.

(c) Any handwritten prescription order for a drug prepared by a dentist who is authorized by law to prescribe a drug must be legible so that it is comprehensible by the pharmacist who fills the prescription. The handwritten prescription order must contain the name of the prescribing dentist, the name and strength of the drug prescribed, the quantity of the drug prescribed, handwritten in letters or in numerals, instructions for the proper use of the drug, and the month and day that the prescription order was issued, recorded in letters or in numerals or a combination thereof. The prescribing dentist must sign the handwritten prescription order on the day it is issued, unless it is a standing order issued in a hospital, a nursing home or an assisted care living facility as defined in § 68-11-201.

(d) Any typed or computer-generated prescription order for a drug issued by a dentist who is authorized by law to prescribe a drug must be legible so that it is comprehensible by the pharmacist who fills the prescription order. The typed or computer generated prescription order must contain the name of the prescribing dentist, the name and strength of the drug prescribed, the quantity of the drug prescribed, recorded in letters or in numerals, instructions for the proper use of the drug, and the month and day that the typed or computer generated prescription order was issued, recorded in letters or in numerals or a combination thereof. The prescribing dentist must sign the typed or computer generated prescription order on the day it is issued, unless it is a standing order issued in a hospital, nursing home or an assisted care living facility as defined in § 68-11-201.

(e) Nothing in this section shall be construed to prevent a dentist from issuing a verbal prescription order.

(f)(1) All handwritten, typed or computer-generated prescription orders must be issued on either tamper-resistant prescription paper or printed utilizing a technology that results in a tamper-resistant prescription that meets the current centers for medicare and medicaid service guidance to state medicaid directors regarding § 7002(b) of the United States Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act of 2007, P.L. 110-28, and meets or exceeds specific TennCare requirements for tamper-resistant prescriptions.

(2) Subdivision (f)(1) shall not apply to prescriptions written for inpatients of a hospital, outpatients of a hospital where the doctor or other person authorized to write prescriptions writes the order into the hospital medical record and then the order is given directly to the hospital pharmacy and the patient never has the opportunity to handle the written order, a nursing home or an assisted care living facility as defined in § 68-11-201 or inpatients or residents of a mental health hospital or residential facility licensed under title 33 or individuals incarcerated in a local, state or federal correctional facility.

(g) [Deleted by 2018 amendment.]

63-5-124. Grounds for denial, suspension or revocation of licenses — Examinations — Investigations of reports — Civil penalties — Costs — Oaths and subpoenas.

(a) The board has the power and it is its duty to deny, suspend, revoke or otherwise restrict or condition the license of, assess a civil penalty for each separate violation against or otherwise lawfully discipline the holder of any license to practice dentistry or any certificate to practice a dental specialty, any license to practice dental hygiene or practice as a registered dental assistant, whenever the licensee or certificate holder is guilty of violating any of the provisions of this chapter or of the following acts or offenses:

(1) Unprofessional, dishonorable or unethical conduct;

(2) A violation or attempted violation, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, this chapter or any lawful order of the board issued pursuant thereto or any criminal statute of this state;

(3) Making false or misleading statements or representations, being guilty of fraud or deceit in obtaining admission to practice or in being guilty of fraud or deceit in the practice of dentistry or dental hygiene or as a registered dental assistant;

(4) Gross health care liability or a pattern of continued or repeated health care liability, ignorance, negligence or incompetence in the course of professional practice;

(5) Habitual intoxication or personal misuse of any drugs or the use of intoxicating liquors, narcotics, controlled substances, controlled substance analogues or other drugs or stimulants, such as, but not limited to, nitrous oxide sedation, in such manner as to adversely affect the person's ability to practice dentistry, dental hygiene or as a registered dental assistant;

(6) Conviction of a felony, conviction of any offense under state or federal drug laws, or conviction of any offense involving moral turpitude. However, an action taken under this subdivision (a)(6) shall be subject to the applicable provisions of the Fresh Start Act that are compiled in chapter 1, part 1 of this title;

(7) Making or signing in one's professional capacity any certificate that is known to be false at the time one makes or signs such certificate;

(8) Dispensing, prescribing or otherwise distributing any controlled substance or any other drug not in the course of professional practice, or not in good faith to relieve pain and suffering or not to cure an ailment, physical infirmity or disease;

(9) Engaging in the practice of dentistry, dental hygiene or as a registered dental assistant when mentally or physically unable to safely do so;

(10) Solicitation by agents or persons of professional patronage or profiting by the acts of those representing themselves to be agents of the licensee or the certificate holder;

(11) Division of fees or agreeing to split or divide fees received for professional services with any person for bringing or referring a patient;

(12) Conducting the practice of dentistry so as to permit directly or indirectly an unlicensed person to perform services or work that under this chapter can be done legally only by persons licensed to practice dentistry or dental hygiene or as a registered dental assistant;

(13) Professional connection or association with any person, firm or corporation in any manner in an effort to avoid and circumvent this chapter, or lending one's name to another for the illegal practice of dentistry by such

person;

(14) Claiming to the public to be a specialist in some particular branch of dentistry without being certified by the board as such;

(15) Payment or acceptance of commissions in any form or manner on fees for professional services, references, consultations, pathological reports, radiographs, prescriptions or on other services or articles supplied to patients;

(16) Having work done by or obtaining work from a dental laboratory without issuing a written work order as provided in § 63-5-108;

(17) Giving of testimonials, directly or indirectly, concerning the supposed virtue of secret therapeutic agents or proprietary preparations, such as remedies, vaccines, mouth washes, dentifrices or other articles or materials that are offered to the public, claiming radical cure or prevention of diseases by their use;

(18) Any other unprofessional or unethical conduct that may be specified by the board by the means of rules and regulations duly published and promulgated by the board or the violation of any provision of this chapter;

(19)(A) A dentist shall not, on behalf of that dentist, that dentist's partner or associate or any other dentist affiliated with that dentist or that dentist's facility, use or participate in the use of any form of public communication containing a false, fraudulent, misleading or deceptive statement or claim;

(B) Moreover, the fact of promulgation of any forms of public communication covered or prohibited in this section or the rules and regulations promulgated hereunder shall be prima facie evidence that the dentist named either used or permitted the use of the public communication;

(C) A licensed dentist is authorized to use personal professional cards, appointment cards, announcements and related materials and appropriate signs and listings indicating the dentist's office and specialty in accordance with rules and regulations promulgated by the board;

(20) Dispensing, prescribing or otherwise distributing any controlled substance, controlled substance analogue or other drug to any person in violation of any law of the state or of the United States; or

(21) Disciplinary action against a person licensed to practice dentistry or dental hygiene or registered to practice as a dental assistant by another state or territory of the United States for any acts or omissions that would constitute grounds for discipline of a person licensed or registered in this state. A certified copy of the initial or final order, or other equivalent document memorializing the disciplinary action from the disciplining state or territory, shall constitute prima facie evidence of a violation of this section and shall be sufficient grounds upon which to deny, restrict or condition licensure/registration or renewal and/or discipline a person licensed in this state.

(b)(1) In enforcing this section, the board shall, upon probable cause, have the authority to compel an applicant or license or certificate holder to submit to a mental and/or physical examination, by a designated committee of at least three (3) practicing physicians, including a psychiatrist where a question of mental condition is involved. The applicant or license or certificate holder may have an independent physical or mental examination, which examination report shall be filed with the board for consideration. The committee will submit a report of its findings to the board for use in any

hearing that may thereafter ensue.

(2) The board may, upon finding of probable cause, require a dentist, dental hygienist or dental assistant to complete drug and/or alcohol treatment through a program designated by, or contracting with, the board. The board in its discretion is authorized to share information, interviews, reports, statements, memoranda or other data at the program director's request. Information shared between the board and the program director shall be deemed not to violate laws requiring confidentiality of investigations or peer review records protected under § 63-5-131.

(c) The board, on its own motion, may investigate any report indicating that a dentist, dental hygienist or dental assistant is or may be in violation of this chapter. Any dentist, dental hygienist, dental assistant, dental or dental related society or association, or any other person who in good faith reports to the board any information that a dentist, dental hygienist or dental assistant is or may be in violation of any provisions of this chapter, is not subject to suit for civil damages as a result thereof.

(d) In assessing a civil penalty pursuant to this chapter, the board should consider the following:

(1) The harm or potential harm of the violation to the public health and welfare;

(2) The extent to which the public was exposed to such harm or potential harm;

(3) The rate, duration and severity of the violations;

(4) The value of the penalty as a deterrent to future violations;

(5) Attempts by the violator to mitigate the harm to the public; and

(6) Such other specific criteria as the board may wish to establish by duly promulgated regulation.

(e) The board, pursuant to duly promulgated rules, may, whenever a final order is issued after a disciplinary contested case hearing that contains findings that a licensee or other person has violated any provision of this chapter, assess the costs directly related to the prosecution of the case, including investigatory costs, against the licensee or person.

(f)(1) Any elected officer of the board or any duly appointed or elected chair has the authority to administer oaths to witnesses. Upon probable cause being established, the board, by a vote of two thirds (⅔) of the members to which the board is entitled, may issue subpoenas for the attendance of witnesses and the production of documents and records.

(2) Service of a subpoena issued by the board shall be made by the sheriff of the county of residence of the licensee or person upon whom the subpoena is served.

(3)(A) A licensee or person served by subpoena shall have thirty (30) days to request in writing a hearing before the board for the sole purpose of making a special appearance to quash or modify the subpoena. The subpoena for attendance of the person or the production of books and records shall be stayed until the board votes upon the request to quash or modify the subpoena. A majority vote of the members to which the board is entitled is required to quash or modify a subpoena.

(B) A motion to appeal from a decision by the board regarding a request to quash or modify a subpoena shall be made to the chancery court in Davidson County within fifteen (15) days of such decision.

(4) If any witness fails or refuses to obey a subpoena issued by it, the board is authorized to make application to any court of record in this state

within the jurisdiction of which the witness is found or resides; and the court shall have power to attach the body of the witness and compel the witness to appear before the board and give testimony or produce books, records or papers as ordered. Any failure to obey the court order may be punished by the court issuing the order as a civil contempt.

(5) Each witness who appears before the board by order of the board shall receive for attendance the compensation provided by law for attendance of witnesses in a court of record, which shall be paid from the funds of the board in the same manner as all other expenses of the board are paid.

63-6-239. Prescriptions for Schedule II controlled substances. [Effective until January 1, 2019. See the Compiler's Notes.]

Any written, printed or computer-generated order for a Schedule II controlled substance prepared by a physician or surgeon who is authorized by law to prescribe a drug must be legibly printed or typed as a separate prescription order. The written, printed or computer-generated order must contain all information otherwise required by law. The prescribing physician or surgeon must sign the written, printed or computer-generated order on the day it is issued. Nothing in this section shall be construed to prevent a physician or surgeon from issuing a verbal prescription order.

63-6-245. Notice to patients of determination that patient has dense or extremely dense breasts.

(a) As used in this section, "physician" means an individual authorized by this chapter to practice medicine and surgery or osteopathic medicine and surgery pursuant to chapter 9 of this title.

(b) If a physician has determined, after a mammogram is performed, that a patient has dense breasts or extremely dense breasts, based on the breast imaging reporting and data system established by the American College of Radiology, the facility where the mammogram was performed shall provide the following notice to the patient:

Your mammogram shows that you have dense breast tissue. Dense breast tissue is common. However, dense breast tissue can hide breast cancer, so that it may not be seen on routine mammography. It may also be associated with an increased risk of developing breast cancer. You should discuss these results with your doctor to determine if additional tests might be helpful. A report of your mammogram results, which contains information about your breast density, has been sent to your doctor's office.

(c) This section shall become operative on January 1, 2014. Nothing in this section shall be construed to create or impose liability for failing to comply with the requirements of this section. Nothing in this section shall be deemed to create a duty of care or other legal obligation beyond the duty to provide notice as set forth in this section. Nothing in this section shall be deemed to require a notice that is inconsistent with the federal Mammography Quality Standards Act (42 U.S.C. § 263b) or any regulations promulgated pursuant to that act.

63-6-247. Acceptance of barter by physician as payment for rendering healthcare services.

Notwithstanding any provisions of law to the contrary, a physician may accept goods or services as payment in a direct exchange of barter for

healthcare services provided by the physician if the patient to whom the healthcare services are provided is not covered by health insurance coverage, as defined by § 56-7-109. A physician who accepts barter as payment in accordance with this section shall annually submit a copy of the relevant federal tax form disclosing the physician's income from barter to the physician's licensing board. This section shall not apply to any healthcare services provided at a pain management clinic as defined in § 63-1-301.

63-7-123. Certified nurse practitioners — Drug prescriptions — Temporary certificate — Rules and regulations. [Effective until January 1, 2019. See the version effective on January 1, 2019.]

(a) The board shall issue a certificate of fitness to nurse practitioners who meet the qualifications, competencies, training, education and experience, pursuant to § 63-7-207(14), sufficient to prepare such persons to write and sign prescriptions and/or issue drugs within the limitations and provisions of § 63-1-132.

(b)(1) A nurse who has been issued a certificate of fitness as a nurse practitioner pursuant to § 63-7-207 and this section shall file a notice with the board, containing the name of the nurse practitioner, the name of the licensed physician collaborating with the nurse practitioner who has control and responsibility for prescriptive services rendered by the nurse practitioner, and a copy of the formulary describing the categories of legend drugs to be prescribed and/or issued by the nurse practitioner. The nurse practitioner shall be responsible for updating this information.

(2)(A) The nurse practitioner who holds a certificate of fitness shall be authorized to prescribe and/or issue controlled substances listed in Schedules II, III, IV, and V of title 39, chapter 17, part 4, upon joint adoption of physician collaboration rules concerning controlled substances pursuant to subsection (d).

(B) Notwithstanding subdivision (b)(2)(A), a nurse practitioner shall not prescribe Schedules II, III, and IV controlled substances unless such prescription is specifically authorized by the formulary or expressly approved after consultation with the collaborating physician before the initial issuance of the prescription or dispensing of the medication.

(C) A nurse practitioner who had been issued a certificate of fitness may only prescribe or issue a Schedule II or III opioid listed on the formulary for a maximum of a non-refillable, thirty-day course of treatment unless specifically approved after consultation with the collaborating physician before the initial issuance of the prescription or dispensing of the medication. This subdivision (b)(2)(C) shall not apply to prescriptions issued in a hospital, a nursing home licensed under title 68, or inpatient facilities licensed under title 33.

(3)(A) Any prescription written and signed or drug issued by a nurse practitioner under collaboration with and the control of a collaborating physician shall be deemed to be that of the nurse practitioner. Every prescription issued by a nurse practitioner pursuant to this section shall be entered in the medical records of the patient and shall be written on a preprinted prescription pad bearing the name, address, and telephone number of the collaborating physician and of the nurse practitioner, and

the nurse practitioner shall sign each prescription so written. Where the preprinted prescription pad contains the names of more than one (1) physician, the nurse practitioner shall indicate on the prescription which of those physicians is the nurse practitioner's primary collaborating physician by placing a checkmark beside or a circle around the name of that physician.

(B) Any handwritten prescription order for a drug prepared by a nurse practitioner who is authorized by law to prescribe a drug must be legible so that it is comprehensible by the pharmacist who fills the prescription. The handwritten prescription order must contain the name of the prescribing nurse practitioner, the name and strength of the drug prescribed, the quantity of the drug prescribed, handwritten in letters or in numerals, instructions for the proper use of the drug and the month and day that the prescription order was issued, recorded in letters or in numerals or a combination thereof. The prescribing nurse practitioner must sign the handwritten prescription order on the day it is issued, unless the prescription order is:

(i) Issued as a standing order in a hospital, a nursing home or an assisted care living facility as defined in § 68-11-201; or

(ii) Prescribed by a nurse practitioner in the department of health or local health departments or dispensed by the department of health or a local health department as stipulated in § 63-10-205.

(C) Any typed or computer-generated prescription order for a drug issued by a nurse practitioner who is authorized by law to prescribe a drug must be legible so that it is comprehensible by the pharmacist who fills the prescription order. The typed or computer-generated prescription order must contain the name of the prescribing nurse practitioner, the name and strength of the drug prescribed, the quantity of the drug prescribed, recorded in letters or in numerals, instructions for the proper use of the drug and the month and day that the typed or computer-generated prescription order was issued, recorded in letters or in numerals or a combination thereof. The prescribing nurse practitioner must sign the typed or computer-generated prescription order on the day it is issued, unless the prescription order is:

(i) Issued as a standing order in a hospital, nursing home or an assisted care living facility as defined in § 68-11-201; or

(ii) Prescribed by a nurse practitioner in the department of health or local health departments or dispensed by the department of health or a local health department as stipulated in § 63-10-205.

(D) Nothing in this section shall be construed to prevent a nurse practitioner from issuing a verbal prescription order.

(E)(i) All handwritten, typed or computer-generated prescription orders must be issued on either tamper-resistant prescription paper or printed utilizing a technology that results in a tamper-resistant prescription that meets the current centers for medicare and medicaid service guidance to state medicaid directors regarding § 7002(b) of the United States Troop Readiness, Veterans' Care, Katrina Recovery and Iraq Accountability Appropriations Act of 2007, P.L. 110-28, and meets or exceeds specific TennCare requirements for tamper-resistant prescriptions.

(ii) Subdivision (b)(3)(E)(i) shall not apply to prescriptions written for inpatients of a hospital, outpatients of a hospital where the doctor or

other person authorized to write prescriptions writes the order into the hospital medical record and then the order is given directly to the hospital pharmacy and the patient never has the opportunity to handle the written order, a nursing home or an assisted care living facility as defined in § 68-11-201 or inpatients or residents of a mental health hospital or residential facility licensed under title 33 or individuals incarcerated in a local, state or federal correctional facility.

(F) Any written, printed or computer-generated prescription order for a Schedule II controlled substance prepared by an advanced practice registered nurse who is authorized by law to prescribe a drug must be printed or typed as a separate prescription order. The written, printed or computer-generated prescription order must contain all information otherwise required by law. The prescribing advanced practice registered nurse must sign the written, printed or computer-generated prescription order on the day it is issued.

(4) The nurse practitioner shall maintain a copy of the protocol the nurse practitioner is using at the nurse practitioner's practice location and shall make the protocol available upon request by the board of nursing, the board of medical examiners or authorized agents of either board.

(5) An advanced practice registered nurse with a certificate of fitness issued pursuant to this chapter, who provides services in a free clinic as defined in § 63-6-703 or engages in the voluntary provision of healthcare services as defined in § 63-6-703, may arrange for required personal review of the nurse's charts by a collaborating physician in the office or practice site of the physician or remotely via HIPAA-compliant electronic means rather than at the site of the clinic. For purposes of this subdivision (b)(5), "HIPAA-compliant" means that the entity has implemented technical policies and procedures for electronic information systems that meet the requirements of 45 CFR 164.312.

(c)(1) The board may issue a temporary certificate of fitness to a registered nurse who:

(A) Is licensed to practice in Tennessee;

(B) Has a master's degree in a nursing clinical specialty area with preparation in specialized practitioner skills that includes three (3) quarter hours of pharmacology instruction or its equivalent; and

(C) Has applied for examination and/or is awaiting examination results for national certification as a first-time examinee in an appropriate nursing specialty area.

(2) Such temporary certificate shall remain valid until the examination results are obtained. The holder of a temporary certificate issued under this subsection (c) who has not received the results of the examination shall work only under the supervision and control of a certified nurse practitioner or physician.

(d) Any rules that purport to regulate the collaboration of nurse practitioners with physicians shall be jointly adopted by the board of medical examiners and the board of nursing.

63-7-123. Certified nurse practitioners — Drug prescriptions — Temporary certificate — Rules and regulations. [Effective on January 1, 2019. See the version effective until January 1, 2019.]

(a) The board shall issue a certificate of fitness to nurse practitioners who meet the qualifications, competencies, training, education and experience, pursuant to § 63-7-207(14), sufficient to prepare such persons to write and sign prescriptions and/or issue drugs within the limitations and provisions of § 63-1-132.

(b)(1) A nurse who has been issued a certificate of fitness as a nurse practitioner pursuant to § 63-7-207 and this section shall file a notice with the board, containing the name of the nurse practitioner, the name of the licensed physician collaborating with the nurse practitioner who has control and responsibility for prescriptive services rendered by the nurse practitioner, and a copy of the formulary describing the categories of legend drugs to be prescribed and/or issued by the nurse practitioner. The nurse practitioner shall be responsible for updating this information.

(2)(A) The nurse practitioner who holds a certificate of fitness shall be authorized to prescribe and/or issue controlled substances listed in Schedules II, III, IV, and V of title 39, chapter 17, part 4, upon joint adoption of physician collaboration rules concerning controlled substances pursuant to subsection (d).

(B) Notwithstanding subdivision (b)(2)(A), a nurse practitioner shall not prescribe Schedules II, III, and IV controlled substances unless such prescription is specifically authorized by the formulary or expressly approved after consultation with the collaborating physician before the initial issuance of the prescription or dispensing of the medication.

(C) A nurse practitioner who had been issued a certificate of fitness may only prescribe or issue a Schedule II or III opioid listed on the formulary for a maximum of a non-refillable, thirty-day course of treatment unless specifically approved after consultation with the collaborating physician before the initial issuance of the prescription or dispensing of the medication. This subdivision (b)(2)(C) shall not apply to prescriptions issued in a hospital, a nursing home licensed under title 68, or inpatient facilities licensed under title 33.

(3)(A) Any prescription written and signed or drug issued by a nurse practitioner under collaboration with and the control of a collaborating physician shall be deemed to be that of the nurse practitioner. Every prescription issued by a nurse practitioner pursuant to this section shall be entered in the medical records of the patient and shall be written on a preprinted prescription pad bearing the name, address, and telephone number of the collaborating physician and of the nurse practitioner, and the nurse practitioner shall sign each prescription so written. Where the preprinted prescription pad contains the names of more than one (1) physician, the nurse practitioner shall indicate on the prescription which of those physicians is the nurse practitioner's primary collaborating physician by placing a checkmark beside or a circle around the name of that physician.

(B) Any handwritten prescription order for a drug prepared by a nurse practitioner who is authorized by law to prescribe a drug must be legible so

that it is comprehensible by the pharmacist who fills the prescription. The handwritten prescription order must contain the name of the prescribing nurse practitioner, the name and strength of the drug prescribed, the quantity of the drug prescribed, handwritten in letters or in numerals, instructions for the proper use of the drug and the month and day that the prescription order was issued, recorded in letters or in numerals or a combination thereof. The prescribing nurse practitioner must sign the handwritten prescription order on the day it is issued, unless the prescription order is:

(i) Issued as a standing order in a hospital, a nursing home or an assisted care living facility as defined in § 68-11-201; or

(ii) Prescribed by a nurse practitioner in the department of health or local health departments or dispensed by the department of health or a local health department as stipulated in § 63-10-205.

(C) Any typed or computer-generated prescription order for a drug issued by a nurse practitioner who is authorized by law to prescribe a drug must be legible so that it is comprehensible by the pharmacist who fills the prescription order. The typed or computer-generated prescription order must contain the name of the prescribing nurse practitioner, the name and strength of the drug prescribed, the quantity of the drug prescribed, recorded in letters or in numerals, instructions for the proper use of the drug and the month and day that the typed or computer-generated prescription order was issued, recorded in letters or in numerals or a combination thereof. The prescribing nurse practitioner must sign the typed or computer-generated prescription order on the day it is issued, unless the prescription order is:

(i) Issued as a standing order in a hospital, nursing home or an assisted care living facility as defined in § 68-11-201; or

(ii) Prescribed by a nurse practitioner in the department of health or local health departments or dispensed by the department of health or a local health department as stipulated in § 63-10-205.

(D) Nothing in this section shall be construed to prevent a nurse practitioner from issuing a verbal prescription order.

(E)(i) All handwritten, typed or computer-generated prescription orders must be issued on either tamper-resistant prescription paper or printed utilizing a technology that results in a tamper-resistant prescription that meets the current centers for medicare and medicaid service guidance to state medicaid directors regarding § 7002(b) of the United States Troop Readiness, Veterans' Care, Katrina Recovery and Iraq Accountability Appropriations Act of 2007, P.L. 110-28, and meets or exceeds specific TennCare requirements for tamper-resistant prescriptions.

(ii) Subdivision (b)(3)(E)(i) shall not apply to prescriptions written for inpatients of a hospital, outpatients of a hospital where the doctor or other person authorized to write prescriptions writes the order into the hospital medical record and then the order is given directly to the hospital pharmacy and the patient never has the opportunity to handle the written order, a nursing home or an assisted care living facility as defined in § 68-11-201 or inpatients or residents of a mental health hospital or residential facility licensed under title 33 or individuals incarcerated in a local, state or federal correctional facility.

(F) [Deleted by 2018 amendment.]

(4) The nurse practitioner shall maintain a copy of the protocol the nurse practitioner is using at the nurse practitioner's practice location and shall make the protocol available upon request by the board of nursing, the board of medical examiners or authorized agents of either board.

(5) An advanced practice registered nurse with a certificate of fitness issued pursuant to this chapter, who provides services in a free clinic as defined in § 63-6-703 or engages in the voluntary provision of healthcare services as defined in § 63-6-703, may arrange for required personal review of the nurse's charts by a collaborating physician in the office or practice site of the physician or remotely via HIPAA-compliant electronic means rather than at the site of the clinic. For purposes of this subdivision (b)(5), "HIPAA-compliant" means that the entity has implemented technical policies and procedures for electronic information systems that meet the requirements of 45 CFR 164.312.

(c)(1) The board may issue a temporary certificate of fitness to a registered nurse who:

(A) Is licensed to practice in Tennessee;

(B) Has a master's degree in a nursing clinical specialty area with preparation in specialized practitioner skills that includes three (3) quarter hours of pharmacology instruction or its equivalent; and

(C) Has applied for examination and/or is awaiting examination results for national certification as a first-time examinee in an appropriate nursing specialty area.

(2) Such temporary certificate shall remain valid until the examination results are obtained. The holder of a temporary certificate issued under this subsection (c) who has not received the results of the examination shall work only under the supervision and control of a certified nurse practitioner or physician.

(d) Any rules that purport to regulate the collaboration of nurse practitioners with physicians shall be jointly adopted by the board of medical examiners and the board of nursing.

63-8-120. Discipline of certificate holders.

(a) The board may refuse to issue an annual renewal certificate, may suspend or revoke any certificate issued by it, censure, reprimand, place on probation and assess a civil penalty up to one thousand dollars ($1,000) for each separate violation whenever the certificate holder is found guilty of any of the following acts or offenses:

(1) Fraud in procuring a license;

(2) Immoral, unprofessional or dishonorable conduct;

(3) Habitual intoxication or addiction or misuse of drugs;

(4) Conviction of a felony;

(5) Use of untruthful or improbable statements or flamboyant or extravagant claims concerning such licensee's professional excellence or abilities;

(6) Practicing under any other name than the certificate holder's own unless board approved;

(7) Failure to renew annual certificate;

(8) Solicitation of optometric services or ophthalmic materials in person or by agent by any means other than advertising authorized by this chapter;

(9) Gross health care liability or a pattern of continued or repeated health care liability, ignorance, negligence or incompetence in the practice of

optometry;

(10) Practice beyond the scope of the certificate;

(11) Furnishing spectacle prescriptions that do not at least meet the informational requirements established by the board or refusing to furnish a copy of a spectacle prescription at no additional cost to the patient at the end of the examination;

(12) Advertising of optometric services or ophthalmic materials in any manner other than permitted by this chapter or rule and regulation of the board;

(13) Engaging in the practice of optometry as an employee of any person, firm or corporation not engaged primarily in health care delivery;

(14) Division of fees or agreeing to split or divide the fees received for professional services with any person for bringing or referring a patient;

(15) Peddle or sell ophthalmic materials as to render or attempt to render optometric services from house to house or door to door. This shall not prohibit, however, an optometrist from attending, prescribing and furnishing ophthalmic materials to a patient who, by reason of illness or physical or mental infirmity, is confined to the patient's place of abode or in a hospital or other institution;

(16) Signing or making in one's professional capacity any certificate known to be false at the time it is signed or made;

(17) Committing any act that is made unlawful by § 63-8-113; or

(18) Committing any act contrary to this chapter or the rules and regulations of the board.

(b) The board may set guidelines for the implementation of the discipline of certificate holders.

(c) The board may require a mental or physical examination of a certificate holder that the board believes may be a threat to that certificate holder or the public or incapable of practicing optometry in accordance with this chapter and the standards established by the board.

(d) The board may provide conditions upon optometrists continuing to practice or upon the reinstatement of certificates. These conditions may include, but are not limited to, the payment of civil penalties, the attendance or completion of courses of study, the passage of examinations, the passage of physical or mental examinations and the treatment of any physical or mental ailments.

(e)(1) The board shall promulgate rules governing the assessment of costs against a licensee or other person found by the board to have violated any provision of this chapter. The costs assessed by the board may include only those costs directly related to the prosecution of the charges against the licensee or other person, including investigatory costs where appropriate. The board shall determine the appropriate amount of costs, if any, to be assessed in a contested case. These costs shall be reasonable and proportionate in light of the violation committed by the licensee or other person.

(2) Any elected officer of the board, or any duly appointed or elected chair, has the authority to administer oaths to witnesses. Upon probable cause being established, the board, by a vote of two thirds (⅔) of the members to which the board is entitled, may issue subpoenas for the attendance of witnesses and the production of documents and records.

(3) Service of a subpoena issued by the board shall be made by the sheriff of the county of residence of the licensee or person upon whom the subpoena

is served.

(4)(A) A licensee or person served by subpoena shall have thirty (30) days to request in writing a hearing before the board for the sole purpose of making a special appearance to quash or modify the subpoena. The subpoena for attendance of the person or the production of books and records shall be stayed until the board votes upon the request to quash or modify the subpoena. A majority vote of the members to which the board is entitled shall be required to quash or modify a subpoena.

(B) A motion to appeal from a decision by the board regarding a request to quash or modify a subpoena shall be made to the chancery court in Davidson County within fifteen (15) days of such decision.

(5) If any witness fails or refuses to obey a subpoena issued by it, the board is authorized to make application to any court of record in this state within the jurisdiction of which the witness is found or resides; and the court shall have power to attach the body of the witness and compel the witness to appear before the board and give testimony or produce books, records or papers as ordered. Any failure to obey the court order may be punished by the court issuing the order as a civil contempt.

(6) Each witness who appears before the board by order of the board shall receive for attendance the compensation provided by law for attendance of witnesses in a court of record, which shall be paid from the funds of the board in the same manner as all other expenses of the board are paid.

(f) An action taken under this section shall be subject to the applicable provisions of the Fresh Start Act that are compiled in chapter 1, part 1 of this title.

63-8-129. Prescriptions for Schedule II controlled substances. [Effective until January 1, 2019. See the Compiler's Notes.]

Any written, printed or computer-generated order for a Schedule II controlled substance prepared by an optometrist who is authorized by law to prescribe a drug must be legibly printed or typed as a separate prescription order. The written, printed or computer-generated order must contain all information otherwise required by law. The prescribing optometrist must sign the written, printed or computer-generated order on the day it is issued. Nothing in this section shall be construed to prevent an optometrist from issuing a verbal prescription order.

63-9-118. Prescriptions for Schedule II controlled substances. [Effective until January 1, 2019. See the Compiler's Notes.]

Any written, printed or computer-generated order for a Schedule II controlled substance prepared by an osteopathic physician who is authorized by law to prescribe a drug must be legibly printed or typed as a separate prescription order. The written, printed or computer-generated order must contain all information otherwise required by law. The prescribing osteopathic physician must sign the written, printed or computer-generated order on the day it is issued. Nothing in this section shall be construed to prevent an osteopathic physician from issuing a verbal prescription order.

63-10-204. Definitions.

As used in parts 2-5 of this chapter, unless the context otherwise requires:

(1) "Administer" means the direct application of a drug to a patient or research subject by injection, inhalation, ingestion, topical application or by any other means;

(2) "Board" means the Tennessee board of pharmacy;

(3) "Certification" means a voluntary process by which a practitioner's training, experience and knowledge are identified as meeting or surpassing a standard, defined or approved by the board beyond that required for licensure or registration;

(4) "Collaborative pharmacy practice" is the practice of pharmacy whereby one (1) or more licensed pharmacists licensed in this state, jointly and voluntarily work with one (1) or more prescribers licensed in this state, under a collaborative pharmacy practice agreement to provide patient care services, to achieve optimal medication use and desired patient outcomes;

(5) "Collaborative pharmacy practice agreement" is a written and signed agreement entered into voluntarily between one (1) or more licensed pharmacists in this state, and one (1) or more prescribers licensed in this state, each of whom is in active practice in this state providing patient care services in this state, that provides for collaborative pharmacy practice, as defined by law;

(6) "Compounding" means the preparation, mixing, assembling, packaging or labeling of a drug or device:

(A) As the result of a prescription order or initiative based on the prescriber-patient-pharmacist relationship in the course of professional practice;

(B) In anticipation of prescription orders based on routine, regularly observed prescribing patterns;

(C) For the purpose of, or as an incident to, research, teaching or chemical analysis and not for sale or dispensing;

(D) For use in a licensed prescribing practitioner's office for administration to the prescribing practitioner's patient or patients when the product is not commercially available upon receipt of an order from the prescriber;

(E) For use in a health care facility for administration to a patient or patients receiving treatment or services provided by that facility when the product is not commercially available upon receipt of an order from an authorized licensed medical practitioner of the facility;

(F) For use by emergency medical services for administration to a patient or patients receiving services from them under authorized medical control when the product is not commercially available upon receipt of an order from a licensed prescriber authorized to provide medical control; or

(G) For use by a licensed veterinarian for administration to their nonhuman patient or patients or for dispensing to nonhuman patients in the course of the practice of veterinary medicine upon receipt of an order from a veterinarian when the product is not commercially available.

(7) "Continuing education" means planned, organized learning experiences and activities beyond the basic educational or preparatory program. These learning experiences and activities are designed to promote the continuous development of skills, attitudes and knowledge necessary to maintain proficiency, provide quality service or products, be responsive to needs and keep abreast of significant change;

(8) "Continuous quality improvement program" means a system of standards and procedures to identify and evaluate quality-related events and to

improve patient care;

(9) "Controlled substance" means a drug, substance or immediate precursor identified, defined or listed in title 39, chapter 17, part 4 and title 53, chapter 11;

(10) "Deliver" or "delivery" means the actual, constructive or attempted transfer from one person to another whether or not there is an agency relationship;

(11) "Device" means an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent or other similar or related article, including any component part or accessory, that is required under federal or state law to be ordered or prescribed by a person duly authorized;

(12) "Dietary supplement" means a product, other than tobacco, intended to supplement the diet that bears or contains one (1) or more of the following ingredients: a vitamin, mineral, herb or other botanical, amino acid, dietary substance for use by humans to supplement the diet by increasing the total dietary intake, or a concentrate, metabolite, constituent, extract or combination of any of these ingredients and any other products designated as dietary supplements by federal or state law;

(13) "Director" means the director of the health related boards;

(14) "Dispense" means preparing, packaging, compounding or labeling for delivery and actual delivery of a prescription drug, nonprescription drug or device in the course of professional practice to a patient or the patient's agent, to include a licensed health care practitioner or a health care facility providing services or treatment to the patient or patients, by or pursuant to the lawful order of a prescriber;

(15) "Distribute" or "distribution" means the sale, purchase, trade, delivery, handling, storage, or receipt of a product or the arrangement of the sale, purchase, trade, delivery, handling, storage, or receipt of a product through third parties; provided, that "distribute" or "distribution" does not include dispensing or administering a product pursuant to a prescription, medical order, or an over-the-counter order. For the purposes of this part, transfers and sales of drugs or devices from one (1) licensed pharmacy to another shall not constitute distribution of drugs or devices;

(16) "Distributor" means a person engaged in the distribution of drugs or devices; provided, that "distributor" does not include licensed wholesale distributors or licensed third-party logistics providers;

(17) "Division" means the division of health related boards;

(18) "Doctor of pharmacy" means a person duly licensed by the board to engage in the practice of pharmacy. "Doctor of pharmacy" and "pharmacist" shall be used interchangeably within parts 4-6 of this chapter and, any other provision of Tennessee Code Annotated and in any rule or regulation promulgated by the state and its agencies;

(19) "Drug" means any of the following:

(A) Articles recognized as drugs or drug products in any official compendium or supplement thereto;

(B) Articles, other than food, intended to affect the structure or function of the body of humans or other animals;

(C) Articles, including radioactive substances, intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in humans or other animals; or

(D) Articles intended for use as a component of any articles specified in

this subdivision (19);

(20) "Executive director" means the executive director of the Tennessee board of pharmacy;

(21) "Label" means any written, printed or graphic matter on the immediate container of a drug or device;

(22) "Labeling" means the process of affixing all labels and other written, printed or graphic matter:

(A) Upon any article or any of its containers or wrappers; or

(B) Accompanying such article;

(23) "Licensure" means the process by which an agency of government grants permission to an individual to engage in a given occupation upon finding that the applicant has attained the minimal degree of competency necessary to ensure that the public health, safety and welfare will be reasonably protected;

(24) "Manufacturer" means any person, except a pharmacist compounding in the normal course of professional practice, engaged in the commercial production, preparation, propagation, conversion or processing of a drug, either directly or indirectly, by extraction from substances of natural origin or independently by means of chemical synthesis, or both, and includes any packaging or repackaging of a drug or the labeling or relabeling of its container and the promotion and marketing of such drugs or devices;

(25) "Medical order" means a lawful order of a prescriber for a specific patient that may or may not include a prescription order, such orders subject to rules and regulations as may be promulgated from time to time by the respective boards that license the persons who are authorized to prescribe drugs;

(26) "Medication therapy management program" means the distinct pharmacist-provided service or group of services that optimize therapeutic outcomes for individual patients. Medication therapy management services are independent of but can occur in conjunction with the provision of a medication product;

(27) "Nonprescription device" means a device that may be sold or dispensed without a prescription order and that is labeled and packaged in compliance with applicable state or federal law;

(28) "Nonprescription drug" means a drug that may be sold or dispensed without a prescription and that is labeled and packaged in compliance with applicable state or federal law;

(29) "Outsourcing facility" means a facility engaged in the compounding of sterile drugs that has elected to register as an outsourcing facility with the U.S. food and drug administration and that complies with all relevant federal laws and regulations;

(30) "Patient education" means the communication of information to the patient or caregiver by the pharmacist;

(31) "Patient profile" means a written or electronic record of individual patient information, created in a pharmacy practice, for use by a pharmacist in the provision of pharmacy patient care services, including drug use review and patient counseling requirements. The profile may include, but is not limited to, demographic information, medical history, medication and devices utilized, testing results and pharmacist comments;

(32) "Peer review committee" or "pharmacist review committee" means any committee, board, commission or other entity of any national, state or

local professional association or society, including an impaired pharmacist peer review committee, a drug utilization review committee or a committee of any pharmacy benefits management organization, health care provider network, licensed health care institution or any health care organization, system or foundation, the function of which, or one of the functions of which, is to review, evaluate and improve the quality of pharmacy-related services provided by pharmacists or pharmacy auxiliary personnel, to provide intervention, support or rehabilitative referrals or services or to determine that pharmacy-related services rendered by pharmacists or pharmacy auxiliary personnel were professionally indicated or were performed in compliance with applicable quality standards, or that the cost of pharmacy-related services rendered by pharmacists or pharmacy auxiliary personnel was reasonable;

(33) "Person" means any individual, partnership, association, corporation and the state, its departments, agencies and employees, and the political subdivisions of Tennessee and their departments, agencies and employees, except the department of health and local health departments;

(34) "Pharmacist" means an individual health care provider licensed by the state, pursuant to parts 4-6 of this chapter, to practice the profession of pharmacy;

(35) "Pharmacist-in-charge" means the supervisory pharmacist who has the authority and responsibility for compliance with laws and rules pertaining to the practice of pharmacy at the practice site of the pharmacist-in-charge;

(36) "Pharmacy" means a location licensed by this state where drugs are compounded or dispensed under the supervision of a pharmacist, as defined in the rules of the board and where prescription orders are received or processed;

(37) "Pharmacy intern" means an individual enrolled in or a graduate of a recognized school or college of pharmacy under rules established by the board who is serving a period of time of practical experience under the supervision of a pharmacist, as defined in the rules of the board;

(38) "Pharmacy technician" means an individual who is specifically trained and designated to assist pharmacists in the practice of pharmacy;

(39)(A) "Practice of pharmacy" means a patient-oriented health service profession in which pharmacists interact and consult with patients and other health care professionals to enhance patients' wellness, prevent illness, and optimize outcomes. The practice involves:

(i) Interpretation, evaluation and implementation of medical orders and prescription orders;

(ii) Responsibility for compounding and dispensing prescription orders, including radioactive substances;

(iii) Participation in drug, dietary supplement and device selection, storage, distribution and administration;

(iv) Drug evaluation, utilization or regimen review;

(v) Maintenance of patient profiles and other pharmacy records;

(vi) Provision of patient education and counseling;

(vii) Provision of patient care services and activities pursuant to a collaborative pharmacy practice agreement;

(viii) Drug or drug-related research; and

(ix) Those professional acts, professional decisions or professional services necessary to maintain all areas of a patient's pharmacist-

provided care;

(B) Nothing in this chapter authorizes a pharmacist to order laboratory tests or prescribe any prescription drugs except pursuant to a medical order by the attending prescriber for each patient or pursuant to a collaborative pharmacy practice agreement jointly agreed upon by a pharmacist or pharmacists and a prescriber or prescribers; provided, that pharmacists are authorized to conduct and assist patients with tests approved for home use. Pharmacists may convey orders for laboratory tests when authorized by the attending prescriber and may prescribe prescription drugs when required to carry out a medical order or perform activities pursuant to a collaborative pharmacy practice agreement when authorized by the attending prescriber;

(40) "Prescriber" means an individual authorized by law to prescribe drugs;

(41) "Prescription drug" means a drug that under federal or state law is required to be dispensed only pursuant to a prescription order or is restricted to use by prescribers and that under federal law must be labeled with either the symbol "Rx only" or the statement "Caution: Federal law restricts this drug to use by, or on the order of, a licensed veterinarian";

(42)(A)(i) "Prescription order" means and includes any order, communicated through written, verbal, or electronic means by a physician, certified physician assistant, pharmacist in accordance with a collaborative pharmacy practice agreement pursuant to this section, dentist, veterinarian, optometrist authorized pursuant to § 63-8-102(12), or other allied medical practitioner, for any drug, device, or treatment;

(ii) "Prescription order" means and includes any order, communicated through written, verbal, or electronic means by a nurse authorized pursuant to § 63-6-204, who is prescribing in collaboration with and under the control and responsibility of a licensed physician, and who meets the requirements pursuant to § 63-7-207(14);

(B) Nothing in this chapter shall prohibit the verbal communication to a pharmacist of a direct order for a prescription from a physician, registered nurse, licensed practical nurse or physician assistant pursuant to § 63-6-204, or dentist, veterinarian, optometrist authorized pursuant to § 63-8-102(12), or other allied medical practitioner by a pharmacist pursuant to § 63-9-113 nor shall this chapter prohibit verbal communication of a direct order for a prescription from one (1) pharmacist to another when ordered pursuant to a collaborative pharmacy practice agreement;

(C) Nothing in this chapter shall require an advanced practice registered nurse specializing as a certified registered nurse anesthetist (CRNA) to obtain authorization to prescribe pursuant to § 63-7-123 in order to select, order, or administer appropriate drugs during services ordered by a physician, dentist, or podiatrist and provided by a CRNA in collaboration with the ordering physician, dentist, or podiatrist that are within the scope of practice of the CRNA and authorized by clinical privileges granted by the medical staff of the facility. Such an order by a CRNA for drugs shall only be valid for dispensing for administration at the facility where the anesthesia services are being provided;

(43) "Provider" or "necessary health care provider" includes a pharmacist who provides health care services within the scope of pharmacy practice;

(44) "Quality assurance program" means a system for identifying problems in patient care that are resolved via administrative, clinical or educational actions to ensure that final products and outcomes meet applicable specifications;

(45) "Quality-related event" means the inappropriate dispensing or administration of a prescribed medication, including, but not limited to:

(A) A variation from the prescriber's medical or prescription order, including, but not limited to:

(i) Dispensing an incorrect drug;

(ii) Dispensing an incorrect drug strength;

(iii) Dispensing an incorrect dosage form;

(iv) Dispensing the drug to the wrong patient; and

(v) Providing inadequate or incorrect packaging, labeling or directions for use; and

(B) Failure to identify, prevent, resolve and manage potential and actual drug and drug-related problems, including, but not limited to:

(i) Over-utilization and under-utilization;

(ii) Therapeutic duplication;

(iii) Drug-age contraindications;

(iv) Drug-allergy contraindications;

(v) Drug-disease contraindications;

(vi) Drug-gender contraindications;

(vii) Drug-drug interactions;

(viii) Incorrect drug dosage;

(ix) Incorrect duration of drug therapy; and

(x) Clinical abuse or misuse;

(46) "Third-party logistics provider" means a person who provides or coordinates warehousing or other logistics services of a drug or device on behalf of a manufacturer, wholesale distributor, or dispenser of the drug or device, but does not take ownership of the drug or device, nor has responsibility to direct the sale or disposition of the drug or device;

(47) "Unprofessional conduct" means the conduct of a pharmacist, pharmacy intern or pharmacy technician that is detrimental to patients or to the profession of pharmacy;

(48) "Wholesale distribution" means the distribution of a drug or device to persons other than the patient or consumer, or the receipt of a drug or device by persons other than the patient or consumer; provided, that "wholesale distribution" does not include the distribution or receipt of products, transactions, or services that are exempted from this definition by rule. For the purposes of this part, transfers and sales of drugs or devices from one licensed pharmacy to another shall not constitute wholesale distribution of drugs or devices; and

(49) "Wholesaler" or "wholesale distributor" means a person primarily engaged in the wholesale distribution of drugs or devices; provided, that "wholesaler" or "wholesale distributor" does not include licensed third-party logistics providers. For the purposes of this part, transfers and sales of drugs or devices from one licensed pharmacy to another shall not constitute wholesale distribution of drugs or devices.

63-10-207. Dispensing of medication prior to authorization.

(a) Notwithstanding any provision of law to the contrary, a pharmacist may, in good faith, dispense to a patient without proper authorization the number of dosages of a prescription drug necessary to allow such patient to secure such authorization from such patient's prescriber, not to exceed a seventy-two-hour supply, if:

(1) The patient offers satisfactory evidence to the pharmacist that the prescriber has placed the patient on a maintenance medication and that such patient is without valid refills or for some valid reason cannot obtain proper authorization; and

(2) In the judgment of the pharmacist, the health, safety and welfare of the patient would otherwise be endangered.

(b) This section shall not be construed to authorize dispensing of controlled substance medication without proper authorization.

(c) If proper authorization cannot be obtained during the seventy-two-hour period, then the pharmacist may dispense the number of dosages necessary for one (1) additional consecutive seventy-two-hour period in accordance with the requirements of this section.

(d)(1) For the purpose of this subsection (d) only, "patient" means a patient from this state, or another state or territory, who was displaced by a disaster, as defined in § 58-2-101, when the patient is present in this state.

(2) A pharmacist in this state may, in good faith, dispense to a patient without proper authorization or a valid prescription the number of dosages of a prescription drug necessary to allow the patient to secure proper authorization or a valid prescription from the patient's prescriber.

(3) The amount of a prescription drug dispensed under this subsection (d) shall not exceed a twenty-day supply.

(4) Prescription information may be obtained from a prescription label, verbal medical order, verbal prescription order, or any other means determined to be legitimate in the professional judgment of the pharmacist.

63-10-215. Transfer of prescriptions to another prescription form. [Effective until January 1, 2019. See the version effective on January 1, 2019.]

(a) Pharmacists, pharmacy interns and pharmacy technicians are authorized to comply with federal and state prescription requirements, including the requirement of a separate prescription for a Schedule II controlled substance found in §§ 63-3-128, 63-5-122(g), 63-6-239, 63-8-129, 63-9-118, 63-7-123(b)(3)(B) and (F), and 63-19-107(2)(E)(ii) and (2)(G), by transferring from a prescription containing a Schedule Il controlled substance any drug that is a nonscheduled prescription drug or any prescribed supply to another prescription form.

(b) The transfer authorized in subsection (a) may be accomplished by scanning, photocopying or transcribing, by hand or other means, and shall include all information regarding each drug or supply being transferred.

(c) The prescription generated in a pharmacy by the transfer process shall not be required to be on tamper-resistant prescription paper.

(d) The prescription generated in a pharmacy utilizing the transfer process shall be recognized as a valid, legal prescription order and shall serve as the original prescription for recordkeeping and other purposes.

63-10-215. Transfer of prescriptions to another prescription form. [Effective on January 1, 2019. See the version effective until January 1, 2019.]

(a) Pharmacists, pharmacy interns and pharmacy technicians are authorized to comply with federal and state prescription requirements, including the requirement of a separate prescription for a Schedule II controlled substance found in §§ 63-1-160, 63-7-123(b)(3)(B), and 63-19-107(2)(E)(ii), by transferring from a prescription containing a Schedule Il controlled substance any drug that is a nonscheduled prescription drug or any prescribed supply to another prescription form.

(b) The transfer authorized in subsection (a) may be accomplished by scanning, photocopying or transcribing, by hand or other means, and shall include all information regarding each drug or supply being transferred.

(c) The prescription generated in a pharmacy by the transfer process shall not be required to be on tamper-resistant prescription paper.

(d) The prescription generated in a pharmacy utilizing the transfer process shall be recognized as a valid, legal prescription order and shall serve as the original prescription for recordkeeping and other purposes.

63-10-223. Agreement limiting ability of pharmacist to discuss issue related to dispensing of controlled substance with patient void and unenforceable.

(a) The general assembly finds that patient access to information about controlled substances is crucial to combating the deadly opioid epidemic in this state and that any obstacle to patients' receiving information about controlled substances is a serious threat to public health.

(b) Any agreement purporting to limit the ability of a pharmacist to discuss any issue related to the dispensing of a controlled substance with a patient is contrary to the public policy of this state and is void and unenforceable. This includes, but is not limited to, information about the risks, effects, and characteristics of the controlled substance; what to expect when taking the controlled substance and how the controlled substance should be used; reasonable alternatives to the prescribed controlled substance; and any applicable cost sharing for a controlled substance or any amount an individual would pay for a controlled substance if that individual were paying cash.

63-10-311. Promulgation of rules regarding oversight of facilities that manufacture, warehouse, and distribute medical devices.

The board shall promulgate rules regarding the board's oversight of facilities that manufacture, warehouse, and distribute medical devices. The rulemaking process shall begin no later than September 1, 2018. The rulemaking process shall be in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, and shall include the formation of an advisory committee, in accordance with § 4-5-205, composed of medical device industry representatives and a representative of the department of economic and community development. The rules promulgated pursuant to this section shall be reviewed every three (3) years for the purpose of reviewing the advancements of new medical device technologies.

63-11-215. Denial, restriction, suspension or revocation of license or certificate — Disciplinary action.

(a) The board has the power to:

(1) Deny an application for a license or certificate to any applicant;

(2) Permanently or temporarily withhold issuance of a license or certificate;

(3) Suspend, limit or restrict a previously issued license or certificate for such time and in such manner as the board may determine;

(4) Reprimand or take such action in relation to disciplining an applicant or licensee or certified person as the board in its discretion may deem proper; or

(5) Permanently revoke a license or certificate.

(b) The grounds upon which the board shall exercise the powers enumerated in subsection (a) include, but are not limited to:

(1) Unprofessional, dishonorable or unethical conduct;

(2) Violation or attempted violation, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provision of this chapter or any lawful order of the board issued pursuant thereto, or any criminal statute of the state;

(3) Making false statements or representations, being guilty of fraud or deceit in obtaining admission to practice or being guilty of fraud or deceit in the course of professional practice;

(4) Gross health care liability or a pattern of continued or repeated health care liability, ignorance, negligence or incompetence in the course of practice;

(5) Habitual intoxication or personal misuse of any drugs or the use of intoxicating liquors, narcotics, controlled substances, controlled substance analogues or other drugs or stimulants in such manner as to adversely affect the person's ability to practice the person's profession;

(6) Willfully betraying a professional secret;

(7) The advertising of psychological practice in which untrue or misleading statements are made or causing the publication or circulation of fraudulent advertising relative to any disease, human ailment or condition;

(8) Willful violation of the rules and regulations that may be promulgated by the board to regulate advertising by practitioners who are under the jurisdiction of such board;

(9) Conviction of a felony, conviction of any offense under state or federal drug laws or conviction of any offense involving moral turpitude;

(10) Making or signing in one's professional capacity any certificate that is known to be false at the time one makes or signs such certificate;

(11) Offering, undertaking or agreeing to cure or treat a disease, injury, ailment or infirmity by a secret means, method, device or instrumentality;

(12) Giving, receiving or aiding or abetting in the giving or receiving of rebates, either directly or indirectly;

(13) Engaging in practice under a false or assumed name or the impersonation of another practitioner of a like, similar or different name;

(14) Engaging in practice when mentally or physically unable to safely do so;

(15) Violation of chapter 6 of this title; and

(16) Practice of a level of psychology inappropriate or beyond the scope of the particular license or licenses or certification held by the licensee or

certified person.

(c) An action taken under this section shall be subject to the applicable provisions of the Fresh Start Act that are compiled in chapter 1, part 1 of this title.

63-11-310 Compliance with ethical standards — Reporting of disciplinary sanctions — Grounds for forfeiture or nonrenewal of license — Notifications to committee.

(a) All licensees shall comply with their respective certifying entity's Guidelines for Responsible Conduct and Professional Disciplinary and Ethical Standards.

(b) Any person licensed under this part who receives disciplinary sanctions from the person's certifying entity shall report such sanctions to the committee within five (5) business days after the disciplinary sanctions have been imposed. Such sanctions may include, but not be limited to, the denial of initial or renewal certification, revocation, suspension, or any other limitation of certification or combination of sanctions. Any licensee who loses certification for any reason shall immediately forfeit their license issued by the committee and shall stop providing ABA services in this state.

(c) Other grounds for forfeiture or nonrenewal of a license issued in accordance with this part include:

(1) Obtaining or attempting to obtain a license by making a false or misleading statement, failing to make a required statement, or engaging in fraud or deceit in any communication to the committee;

(2) Gross or repeated negligence, incompetence, misconduct, or malpractice in professional work including, but not limited to:

(A) Any physical or mental condition that currently impairs a licensee's competent professional performance or that poses a substantial risk to the recipient of behavior analysis services;

(B) Professional conduct that constitutes an extreme and unjustified deviation from the customary standard of practice accepted in the applied behavior analytic community that creates a serious risk of harm to, or deception of, service recipients;

(C) Abandonment of a service recipient resulting in the termination of imminently needed care without adequate notice or provision for transition;

(D) Professional record keeping or data collection that constitutes an extreme and unjustified deviation from the customary standard of practice for the field, or deceptively altering a service recipient's records or data;

(E) Engaging in blatant fraud, deception, misrepresentation, false promise or pretense, intimidation in the practice of applied behavior analysis, or in solicitation of service recipients;

(F) The unauthorized material disclosure of confidential service recipient information;

(G) Limitation, sanction, revocation, or suspension by a health care organization, professional organization, or other private or governmental body, relating to behavior analysis practice, public health or safety, or behavior analysis certification or licensure; or

(H) Any conviction of a felony or misdemeanor directly relating to behavior analysis practice or public health or safety.

(d) Applicants and licensees shall notify the committee of the following

within thirty (30) days of their occurrence:

(1) A change of name, address, or other vital information;

(2) The filing of any criminal charge or civil action against the applicant or licensee;

(3) The initiation of any disciplinary charges, investigations, or findings or sanctions by a health care organization, federal or state agency, or other professional association against the licensee; and

(4) Any other change in information provided by the applicant or licensee to the committee.

(e) An action taken under this section shall be subject to the applicable provisions of the Fresh Start Act that are compiled in chapter 1, part 1 of this title.

63-12-124. Denial, suspension or revocation of license — Investigation — Immunity of informants.

(a) The board, pursuant to the procedure prescribed in this section, has the power to deny, suspend or revoke any license or to otherwise discipline an applicant or licensee who is found guilty by the board of one (1) or more of the following:

(1) Willful or repeated violation of any provisions of this chapter or any rules of the board;

(2) Fraud or deceit in procuring or attempting to procure a license to practice veterinary medicine, or presenting to the board dishonest or fraudulent evidence of qualification or fraud or deception in the process of examination for the purpose of securing a license;

(3) The willful failure to display a license;

(4) Fraud, deception, misrepresentation, dishonest or illegal practices in or connected with the practice of veterinary medicine in any of its branches;

(5) Willfully making any misrepresentation in the inspection of food for human consumption;

(6) Fraudulently issuing or using any health certificate, vaccination certificate, inspection certificate, test chart or other blank form used in the practice of veterinary medicine to the dissemination of animal disease, transportation of diseased animals or the sale of inedible products of animal origin for human consumption;

(7) Fraud or dishonesty in applying, treating or reporting on tuberculin, diagnostic or other biological test;

(8) Failure to keep the equipment and premises of the business establishment in a clean and sanitary condition;

(9) Refusing to permit the board or any legal representative of the board to inspect the business premises of the licensee during regular business hours;

(10) Circulating knowingly untrue, fraudulent, misleading or deceptive advertising;

(11) Gross malpractice or a pattern of continued or repeated malpractice, ignorance, negligence or incompetence in the course of veterinary medical practice;

(12) Unprofessional or unethical conduct or engaging in practices in connection with the practice of veterinary medicine that are in violation of the standards of professional conduct as defined in this section or prescribed

by the rules of the board;

(13) Conduct reflecting unfavorably upon the profession of veterinary medicine;

(14) The willful making of any false statement as to a material matter in any oath or affidavit that is required by this chapter;

(15) Revocation by another state of a license to practice veterinary medicine in that state, in which case the record of such revocation shall be conclusive evidence;

(16) Conviction on a charge of cruelty to animals;

(17) Conviction of a felony under federal or state law involving use, misuse, possession or sale of any controlled substance or controlled substance analogue;

(18) Conviction of a felony in the courts of this state, or of any other state, territory or country that, if committed in this state, would be a felony;

(A) The record of conviction in a court of competent jurisdiction shall be sufficient evidence for disciplinary action to be taken as may be considered proper by the board. For the purpose of this chapter, a conviction shall be considered to be a conviction that has been upheld by the highest appellate court having jurisdiction or a conviction upon which the time for filing an appeal has passed; and

(B) A record of conviction upon charges that involve the unlawful practice of veterinary medicine; and based upon such record of conviction, without any other testimony, the board may take temporary disciplinary action even though an appeal for review by a higher court may be pending;

(19) Permitting or allowing another to use the licensee's license for the purpose of treating or offering to treat sick, injured or affected animals;

(20) Engaging in the practice of veterinary medicine under a false or assumed name or the impersonation of another practitioner of a like, similar or different name;

(21) Has been guilty of employing or permitting any person who does not hold a license to practice veterinary medicine in this state to perform work that, under this chapter, can lawfully be done only by persons holding such license and permitted by law to practice veterinary medicine in this state. It shall be conclusively presumed that any unlicensed person, if employed by a licensed person, was employed for such purpose if the unlicensed person has attended any school of veterinary medicine or surgery, accredited or otherwise, for a period of over thirty (30) days;

(22) Addiction to the habitual use of intoxicating liquors, narcotics or other stimulants to such an extent as to incapacitate the applicant or licensee from the performance of the applicant's or the licensee's professional obligations and duties;

(23) Professional incompetence;

(24) Having been adjudged mentally incompetent by a court of competent jurisdiction and the disabilities of such person not having been restored or the voluntary commitment or admission to a state hospital or other mental institution. The record of adjudication, judgment, order or voluntary commitment is conclusive evidence of such mental illness; and upon receipt of a certified copy of any such adjudication, judgment, order or record of voluntary commitment by the board, it may suspend the license of the person so adjudicated or committed;

(25) Failure to report, as required by law, or making false report of, any contagious or infectious disease as referred to under the United States department of agriculture (USDA) standards for accreditation of veterinarians in Tennessee and other states;

(26) Has been found guilty of using biologicals or other drugs that have deteriorated or after the expiration date of that particular lot or serial number;

(27) Has been convicted of any crime involving moral turpitude;

(28) Dispensing, prescribing or otherwise distributing any controlled substance or any other drug not in the course of the accepted practice of veterinary medicine; or

(29) Practicing veterinary medicine without establishing and maintaining a valid veterinarian-client-patient relationship.

(b) The board may, on its own motion, cause to be investigated any report indicating that a veterinarian is or may be in violation of this chapter.

(c) Any person who in good faith shall report to the board any information that a veterinarian is or may be in violation of any provisions of this chapter shall not be subject to suit for civil damages as a result thereof.

(d) An action taken under this section shall be subject to the applicable provisions of the Fresh Start Act that are compiled in chapter 1, part 1 of this title.

63-12-133. Exemptions.

(a) This chapter shall not be construed as applying to:

(1) Students in schools or colleges of veterinary medicine when in performance of duties or actions assigned by their instructors or when working under the immediate supervision of a licensed veterinarian;

(2) Any lawfully qualified veterinarian residing in another state or country, when meeting in consultation with a licensed veterinarian of this state, who:

(A) Does not open an office or appoint a place to do business within this state;

(B) Does not print or use letterhead or business cards reflecting addresses in this state;

(C) Does not establish answering services or advertise the existence of a practice's address within this state; and

(D) Practices veterinary medicine as a consultant while rendering services directly to the public, under the direction of and in consultation with licensees of this state, for less than twelve (12) days per calendar year.

(3) Any veterinarian in the employ of a state agency or the United States government while actually engaged in the performance of the veterinarian's official duties; however, this exemption shall not apply to such person when the person is not engaged in carrying out the person's official duties or is not working at the installations for which the person's services were engaged;

(4) Prevent any person or the person's regular employee from administering to the ills and injuries of the person's own animals, including, but not limited to, castration of animals and dehorning of cattle, unless title has been transferred or employment provided for the purpose of circumventing this law;

(5) State agencies, accredited schools, institutions, foundations, business corporations or associations, physicians licensed to practice medicine and surgery in all its branches, graduate doctors of veterinary medicine or persons under the direct supervision thereof, who or which conduct experiments and scientific research on animals in the development of pharmaceuticals, biologicals, serums or methods of treatment or techniques for the diagnosis or treatment of human ailments, or when engaged in the study and development of methods and techniques directly or indirectly applicable to the problems of the practice of veterinary medicine;

(6) Veterinary aides, nurses, laboratory technicians or other employees of a licensed veterinarian who administer medication or render auxiliary or supporting assistance under the responsible supervision of such licensed veterinarian;

(7) Any person gratuitously treating animals in cases of emergency; provided, that the person does not claim to be a veterinarian or use any title or degree appertaining to the practice thereof;

(8) Any merchant or manufacturer selling at the merchant's or manufacturer's regular place of business medicines, feed, appliances or other products used in the prevention or treatment of animal diseases. This shall not be construed to authorize the sale of medicines or biologicals that must be obtained by a prescription from a veterinarian, but shall only include the right to sell those medicines that are classified as proprietary and that are commonly known as over-the-counter medicines;

(9) Any person advising with respect to or performing acts that the board by rule has prescribed as accepted livestock management practice;

(10) Any person or such person's employees when removing an embryo from the person's own food animal for the purpose of transplanting or cryopreserving such embryo; and

(11) The use of any manual procedure for the testing of pregnancy in bovine animals when performed by a farmer as defined in § 67-6-207(e)(1), (3), (4) and (5), only if:

(A) Such farmer testing for pregnancy is not compensated by the person who owns such animals, other than by the exchange of services for or the use of equipment by such farmer performing the pregnancy test; and

(B) The results of such testing are for the owner's use only and not to affect commerce.

(b) The operations known as castrating and dehorning are not regarded as practicing veterinary surgery, and nothing in this chapter shall be construed to prohibit anyone from castrating or dehorning any wild or domestic animal.

(c) For the purposes of this chapter, the practice of veterinary medicine shall not include the artificial insemination of livestock, as the term livestock is defined in § 43-1-114. The practice of artificial insemination shall be considered an accepted livestock management practice.

(d) [Deleted by 2018 amendment.]

63-12-201. Part definitions.

As used in this part:

(1) "Animal massage therapy" means the manipulation of the soft tissues of the animal body with the intention of positively affecting the health and well-being of the animal. "Animal massage therapy" does not include the

diagnosis, treatment, correction, alleviation, or prevention of any animal disease, illness, pain, deformity, defect, injury, or other physical or mental condition, or otherwise constitute the practice of veterinary medicine;

(2) "Certified animal massage therapist" means a person who qualifies for, and voluntarily obtains, certification under this part; and

(3) "Registered animal massage therapist" means a person who qualifies for, and voluntarily obtains, certification under this part.

63-12-202. Use of term "certified animal massage therapist" or "registered animal massage therapist" — Prohibitions.

(a) No person shall use the title "certified animal massage therapist" or "registered animal massage therapist" unless the person meets the requirements of this part.

(b) This part shall not prohibit any person from rendering or offering to render animal massage therapy services; provided, that a person who is not certified or registered under this part shall not use, or knowingly allow themselves to be identified by, the title "certified animal massage therapist" or "registered animal massage therapist".

(c) Persons who hold themselves out as certified animal massage therapists or registered animal massage therapists without complying with § 63-12-203 are in violation of the Tennessee Consumer Protection Act, compiled in title 47, chapter 18, part 1.

63-12-203. Use of term "certified animal massage therapist" or "registered animal massage therapist" — Requirements.

In order to use the term "certified animal massage therapist" or "registered animal massage therapist", a person must:

(1) Complete at least fifty (50) hours of training in anatomy and physiology, kinesiology, and pathologies in order to gain aptitude in preventing the delay of care to animals;

(2) Complete at least fifty (50) hours of supervised in-class hands-on work, which would include assessment and execution of bodywork skills being studied, benefits of massage, benefits of acupressure, and practice guidelines;

(3) Take and pass an examination by the National Board of Certification for Animal Acupressure and Massage or a comparable examination that tests the aptitude in the course of training described in subdivisions (1) and (2); and

(4) Post a surety bond under § 63-12-204.

63-12-204. Liability insurance requirement.

A person practicing animal massage therapy shall obtain liability insurance in the amount of twenty-five thousand dollars ($25,000) for the benefit of any person who is damaged because of the negligence of the person in the performance of animal massage therapy services.

63-13-209. Denial, suspension or revocation of license.

(a) The board of occupational therapy has the power and it is its duty to deny, suspend or revoke the license of or to otherwise lawfully discipline a licensee whenever the licensee is guilty of violating any of this part or is guilty

of any of the following acts or offenses:

(1) Unprofessional, dishonorable or unethical conduct;

(2) Violation or attempted violation, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provision of this part or any lawful order of the board issued pursuant thereto or any criminal statute of this state;

(3) Making false or misleading statements or representations, being guilty of fraud or deceit in obtaining admission to practice or being guilty of fraud or deceit in the licensee's practice;

(4) Gross health care liability or a pattern of continued or repeated health care liability, ignorance, negligence or incompetence in the course of professional practice;

(5) Habitual intoxication or personal misuse of any drugs or the use of intoxicating liquors, narcotics, controlled substances, controlled substance analogues or other drugs or stimulants in such a manner as to adversely affect the person's ability to practice;

(6) Conviction of a felony, conviction of any offense under state or federal drug laws or conviction of any offense involving moral turpitude;

(7) Making or signing in one's professional capacity any certificate that is known to be false at the time one makes or signs such certificate;

(8) Engaging in practice when mentally or physically unable to safely do so;

(9) Solicitation by agents or persons generally known as "cappers" or "steerers" of professional patronage or profiting by the acts of those representing themselves to be agents of the licensee;

(10) Division of fees or agreeing to split or divide fees received for professional services with any person for bringing or referring a patient;

(11) Conducting practice so as to permit, directly or indirectly, an unlicensed person to perform services or work that, under this part, can be done legally only by persons licensed to practice;

(12) Professional connection or association with any person, firm or corporation in any manner in an effort to avoid and circumvent this part or lending one's name to another for illegal practice;

(13) Payment or acceptance of commissions, in any form or manner, on fees for professional services, references, consultations, pathological reports, prescriptions or on other services or articles supplied to patients;

(14) Giving of testimonials, directly or indirectly, concerning the supposed virtue of secret therapeutic agents or proprietary preparations, such as remedies, or other articles or materials that are offered to the public, claiming radical cure or prevention of diseases by their use;

(15) Violating the code of ethics adopted by the board;

(16) Any other unprofessional or unethical conduct that may be specified by the rules duly published and promulgated by the board or the violation of any provision of this part;

(17) On behalf of the licensee, the licensee's partner, associate or any other person affiliated with the licensee or the licensee's facility, use or participate in the use of any form of public communication containing a false, fraudulent, misleading or deceptive statement or claim; or

(18) Disciplinary action against a person licensed to practice occupational therapy by another state or territory of the United States for any acts or omissions that would constitute grounds for discipline of a person licensed in

this state. A certified copy of the initial or final order or other equivalent document memorializing the disciplinary action from the disciplining state or territory shall constitute prima facie evidence of violation of this section and be sufficient grounds upon which to deny, restrict or condition licensure or renewal and/or discipline a person licensed in this state.

(b) In enforcing this section, the board of occupational therapy shall, upon probable cause, have the authority to compel an applicant or licensee to submit to a mental or physical examination, or both, by a designated board of at least three (3) practicing physicians, including a psychiatrist, where a question of mental condition is involved. The applicant or licensee may have an independent physical or mental examination, which examination report shall be filed with the board for consideration. The physicians' board shall submit a report of its findings to the board for use in any hearing that may thereafter ensue.

(c) The board, on its own motion, may cause to be investigated any report indicating that a licensee is or may be in violation of this part. Any licensee, any occupational therapist or occupational therapy-related society or association or any other person who in good faith reports to the board any information that a licensee is or may be in violation of any provisions of this part shall not be subject to suit for civil damages as a result thereof.

(d) An action taken under this section shall be subject to the applicable provisions of the Fresh Start Act that are compiled in chapter 1, part 1 of this title.

63-13-312. Denial, suspension or revocation of licenses.

(a) The board has the power, and it shall be its duty, to deny, suspend or revoke the license of, or to otherwise lawfully discipline, a licensee who is guilty of violating any of this part or is guilty of the following acts or offenses:

(1) Practicing physical therapy in violation of this chapter or any rule or written order adopted by the board;

(2) Practicing or offering to practice beyond the scope of physical therapy practice as defined in this chapter;

(3) Making false or misleading statements or representations, being guilty of fraud or deceit in obtaining admission to practice or being guilty of fraud or deceit in the licensee's practice;

(4) Engaging in the performance of substandard care by a physical therapist due to ignorance, incompetence or a deliberate or negligent act or failure to act, regardless of whether actual injury to the patient is established;

(5) Engaging in the performance of substandard care by a physical therapist assistant, which includes exceeding the authority to perform the task selected and delegated by the supervising physical therapist, regardless of whether actual injury to the patient is established;

(6) Inadequately supervising or delegating duties that exceed the scope of practice for assistive personnel in accordance with this chapter and rules adopted by the board;

(7) Conviction of a felony or any offense involving moral turpitude in the courts of this state or any other state, territory or country. "Conviction," as used in this subdivision (a)(7), includes a finding or verdict of guilt or a plea of nolo contendere;

(8) Practicing as a physical therapist or working as a physical therapist assistant when physical or mental abilities are impaired by the use of controlled substances, controlled substance analogues, other habit-forming drugs, chemicals or alcohol;

(9) Disciplinary action against a person licensed to practice as a physical therapist or physical therapist assistant by another state or territory of the United States for any acts or omissions that would constitute grounds for discipline of a person licensed in this state. A certified copy of the initial or final order or other equivalent document shall constitute prima facie evidence of a violation of this section and be sufficient grounds upon which to deny, restrict or condition licensure or renewal and/or discipline a person licensed in this state;

(10) Engaging in sexual misconduct. "Sexual misconduct," for the purpose of this section, includes:

(A) Engaging in or soliciting sexual relationships, whether consensual or nonconsensual, while a physical therapist or physical therapist assistant/patient relationship exists;

(B) Making sexual advances, requesting sexual favors and engaging in other verbal conduct or physical conduct or physical contact of a sexual nature with patients; and

(C) Intentionally viewing a completely or partially disrobed patient in the course of treatment, if the viewing is not related to patient diagnosis or treatment under current practice standards;

(11) Directly or indirectly requesting, receiving or participating in the dividing, transferring, assigning, rebating or refunding of an unearned fee or profiting by means of a credit or other valuable consideration, such as an unearned commission, discount or gratuity in connection with the furnishing of physical therapy services. Nothing in this subdivision (a)(11) prohibits the members of any regularly and properly organized business entity recognized by law and comprised of physical therapists from dividing fees received for professional services among themselves as they determine necessary to defray their joint operating expenses. Physical therapists employed by or contracting with a physician, physician group, as defined in accordance with the federal Physician Self-Referral Law (42 U.S.C. § 1395nn), or entity primarily owned by physicians and receiving wages or other compensation and/or benefits pursuant to the employment or contract shall not be deemed to be in violation of any provision under this chapter solely by virtue of the employment or contract and shall not be subject to licensure denial, suspension, revocation or any other disciplinary action or other penalty described under this chapter solely by virtue of the employment or contract. This subdivision (a)(11) shall not be interpreted in such a way as to create a prohibition on the corporate practice of any health care professional where no such prohibition previously existed;

(12) Failing to adhere to standards of ethics of the physical therapy profession;

(13) Charging unreasonable or fraudulent fees for services performed or not performed;

(14) Making misleading, deceptive, untrue or fraudulent representations in violation of this chapter, or otherwise, in practice of the profession;

(15) Being under a current judgment of mental incompetency rendered by a court of competent jurisdiction;

(16) Aiding or abetting a person not licensed in this state who directly or indirectly performs activities requiring a license;

(17) Failing to report to the board any act or omission of a licensee, applicant or any other person which violates this chapter;

(18) Interfering with, or refusing to cooperate in, an investigation or disciplinary proceeding, including willful misrepresentation of facts or by the use of threats or harassment against any patient or witness to prevent the patient or witness from providing evidence in a disciplinary proceeding or any legal action;

(19) Failing to maintain patient confidentiality without prior written consent or unless otherwise required by law;

(20) Failing to maintain adequate patient records that contain a minimum of an evaluation of objective finding, a physical therapy treatment diagnosis, the plan of care including desired outcomes, the treatment record, a discharge plan including results of intervention and sufficient information to identify the patient;

(21) Promoting unnecessary devices, treatment intervention or service for the financial gain of the practitioner or of a third party;

(22) Providing treatment intervention unwarranted by the condition of the patient, nor shall the licensee continue treatment beyond the point of reasonable benefit;

(23) A violation or attempted violation, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate any provisions of this chapter or any lawful order of the board issued pursuant thereto or any criminal statute of this state;

(24) Division of fees or agreeing to split fees or divide fees received for professional services with any person for bringing or referring a patient outside the scope of § 63-13-315; or

(25) Payment or acceptance of commissions, in any form or manner, on fees for professional services, references, consultations, pathological reports, prescriptions or on other services or articles supplied to patients.

(b) An action taken under this section shall be subject to the applicable provisions of the Fresh Start Act that are compiled in chapter 1, part 1 of this title.

63-14-104. Revocation or suspension of license.

(a) It is unlawful for a dispensing optician to act as the agent or representative of any physician or optometrist on any account. The board has the power and it is hereby its duty to suspend for a specified period of time to be determined by the board in its discretion or to revoke or otherwise discipline any person holding a certificate to practice as a dispensing optician in this state whenever the dispensing optician is found guilty of any of the following acts or offenses:

(1) Fraud in procuring a license;

(2) Immoral, unprofessional or dishonorable conduct;

(3) Habitual intoxication or addiction to the use of drugs;

(4) Conviction of felony;

(5) Use of comparative statements or claims concerning the professional excellence or abilities of any person or group of persons licensed to practice their profession under the laws of the state;

(6) Failure to renew annual certificate required under §§ 63-14-106 and 63-14-107;

(7) Offering discounts or inducements to prospective patrons by means of coupons or otherwise to perform professional services; provided, that nothing in this section shall be construed to prohibit the giving of a discount on either merchandise or services to charitable institutions; or

(8) Division of fees or agreement to split or divide the fee received for professional services with any person for bringing or referring a customer.

(b) An action taken under this section shall be subject to the applicable provisions of the Fresh Start Act that are compiled in chapter 1, part 1 of this title.

63-16-108. Suspension or revocation of license or registration — Discipline — Reissuance of license or registration.

(a) The license and/or registration of any person practicing or offering to practice nursing home administration or the license of a nursing home administrator holding a provisional license may be revoked or suspended, or the licensee be disciplined in accordance with this section upon decision and after due hearing by the board in any of the following cases:

(1) Upon proof that the licensee is unfit or incompetent by reasons of negligence, habits or other causes;

(2) Upon proof that the licensee has willfully or repeatedly violated this chapter or the rules or regulations promulgated in accordance therewith; or willfully or repeatedly acted in a manner inconsistent with the health and safety of the patients in the home in which the licensee is the administrator;

(3) Upon proof that the licensee is guilty of fraud or deceit in the practice of nursing home administration; or

(4) Upon proof that the licensee has been convicted of a felony in a court of competent jurisdiction, either within or without this state.

(b) The members of the board have jurisdiction to hear all charges brought under this section against persons licensed and registered as nursing home administrators or nursing home administrators holding a provisional license and, upon such hearing, shall determine the charges upon their merits. The board or hearing officer designated as such by the board, acting in an official capacity, has the authority to issue subpoenas, compel the attendance of witnesses, administer oaths and take testimony concerning all matters within the jurisdiction of the board. The board is not bound by the strict rules of evidence in the conduct of its proceedings, but any determinations made shall be founded upon sufficient legal evidence to sustain them.

(c) If the board determines that a person is guilty of the charges, the board may direct revocation of the person's license and/or revoke the person's registration, suspend the person from practice or otherwise discipline the licensee.

(d) In all disciplinary proceedings of a licensee, the holder shall be given thirty (30) days' written notice of the hearing. The Uniform Administrative Procedures Act, compiled in title 4, chapter 5, apply to all disciplinary proceedings of the board and all regulations promulgated pursuant to this chapter.

(e) If the board suspends the licensee, it may also specify conditions to be met by the licensee during the period of suspension in order to entitle the

licensee to again qualify for the license. The board may, in its discretion, after hearing, hold the case under advisement and make a recommendation as to the requirements to be met by the licensee in order to avoid suspension, revocation or other disciplinary actions. In such cases the board shall enter an order accordingly and notify the licensee by registered mail. If the licensee complies with such order and proves that fact to the satisfaction of the board, the board may enter an order showing satisfactory compliance in dismissing the case because of such compliance.

(f) The board may, in its discretion, certify for licensure and/or registration any person whose license and/or registration has been revoked. Application for the reissuance of a license and/or registration shall not be made prior to one (1) year after revocation, and shall be made in such manner as the board may direct. Any licensee or applicant for a license aggrieved by the action of the board may have such action reviewed pursuant to title 27, chapter 9.

(g) An action taken under this section shall be subject to the applicable provisions of the Fresh Start Act that are compiled in chapter 1, part 1 of this title.

63-17-117. Denial, revocation and suspension of licenses.

(a) The board may refuse to issue a license or may suspend or revoke the license of any licensee if the licensee has been found guilty of unprofessional conduct that has endangered or is likely to endanger the health, welfare or safety of the public. Such unprofessional conduct may include:

(1) Obtaining the license by means of fraud, misrepresentation or concealment of material facts;

(2) Being guilty of unprofessional conduct as defined by the rules established by the board or violating the code of ethics adopted and published by the board;

(3) Violating any lawful order, rule or regulation rendered or adopted by the board; or

(4) Violating any provisions of this chapter.

(b) The board shall deny an application for, suspend or revoke or impose probationary conditions upon a license as ordered by the board in any decision made after a hearing as provided in this chapter. One (1) year from the date of revocation of a license under this chapter, application may be made to the board for reinstatement. The board has discretion to accept or reject an application for reinstatement and may require an examination for such reinstatement.

(c) A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge of a felony or of any offense involving moral turpitude is deemed to be a conviction within the meaning of this chapter. However, an action taken under this subsection (c) shall be subject to the applicable provisions of the Fresh Start Act that are compiled in chapter 1, part 1 of this title.

63-18-108. Grounds for denial, revocation, or suspension of license or other discipline.

(a) The board is authorized to deny, restrict or condition any application for licensure or revoke, suspend or otherwise discipline the license of a massage therapist or an establishment, if the applicant, licensee or holder of an

establishment license upon proof:

(1) Is guilty of fraud in the practice of massage or fraud or deceit in the licensee's admission to the practice of massage;

(2) Has been convicted in a court of competent jurisdiction of an offense that constitutes a felony or a misdemeanor under the laws of this state;

(3) Is engaged in the practice of massage under a false or assumed name or is impersonating another practitioner of a like or different name;

(4) Abuses or is addicted to the habitual use of intoxicating liquors, drugs or stimulants to such an extent as to incapacitate such person's performance of professional duties;

(5) Is guilty of fraudulent, false, misleading or deceptive advertising or for prescribing medicines or drugs or practicing any licensed profession without legal authority. The licensee may not diagnose or imply or advertise, in any way, services for a condition that would require a diagnosis;

(6) Is guilty of willful negligence in the practice of massage or has been guilty of employing, allowing or permitting any unlicensed person to perform massage in such licensee's establishment;

(7) Has violated this chapter or any substantive rule promulgated under the authority of this chapter;

(8) Has been convicted of sexual misconduct, assignation or the solicitation or attempt thereof;

(9) Has violated or attempted to violate, directly or indirectly, or has assisted in or abetted the violation of, or conspired to violate, any provision of this chapter or any lawful order of the board issued pursuant to this chapter;

(10) Has practiced as a licensed massage therapist in an unlicensed massage establishment;

(11) Is mentally incompetent; or

(12) Is guilty of unethical or unprofessional conduct.

(b) An action taken under this section shall be subject to the applicable provisions of the Fresh Start Act that are compiled in chapter 1, part 1 of this title.

63-19-102. Part definitions.

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

(1) "Board" means the board of medical examiners, created by § 63-6-101;

(2) "Committee" means the board of medical examiners' committee on physician assistants, established by § 63-19-103;

(3) "Orthopedic physician assistant" (OPA-C) means an individual who renders service in collaboration with a licensed orthopedic physician or surgeon and who has been licensed by the committee on physician assistants and the board of medical examiners pursuant to this chapter as an orthopedic physician assistant;

(4) "Physician" means a person lawfully licensed to practice medicine and surgery pursuant to chapter 6 of this title, osteopathic medicine pursuant to chapter 9 of this title, or podiatry pursuant to chapter 3 of this title; and

(5) "Physician assistant" means an individual who renders services, whether diagnostic or therapeutic, that are acts constituting the practice of medicine or osteopathic medicine and, but for §§ 63-6-204 and 63-9-113, could only be performed by a licensed physician.

63-19-106. Authorized services — Collaboration.

(a)(1) A physician assistant is authorized to perform selected medical services only in collaboration with a licensed physician.

(2) Collaboration requires active and continuous overview of the physician assistant's activities to ensure that the physician's directions and advice are in fact implemented, but does not require the continuous and constant physical presence of the collaborating physician. The board and the committee shall adopt, by September 19, 1999, regulations governing the collaborating physician's personal review of historical, physical and therapeutic data contained in the charts of patients examined by the physician assistant.

(3) The range of services that may be provided by a physician assistant shall be set forth in a written protocol, jointly developed by the collaborating physician and the physician assistant. The protocol shall also contain a discussion of the problems and conditions likely to be encountered by the physician assistant and the appropriate treatment for these problems and conditions. The physician assistant shall maintain the protocol at the physician assistant's practice location and shall make the protocol available upon request by the board of medical examiners, the committee on physician assistants or the authorized agents of the board or the committee.

(4) A physician assistant may perform only those tasks that are within the physician assistant's range of skills and competence, that are within the usual scope of practice of the collaborating physician and that are consistent with the protection of the health and well-being of the patients.

(5) The physician assistant may render emergency medical service in accordance with guidelines previously established by the collaborating physician pending the arrival of a responsible physician in cases where immediate diagnosis and treatment are necessary to avoid disability or death.

(b) A physician assistant shall, at all times, practice in collaboration with a licensed physician who has control of and responsibility for the services provided by the physician assistant and the duty of assuring that there is a proper collaboration with the physician and that the activities of the physician assistant are otherwise appropriate.

(c) Any rules that purport to regulate the collaboration of physician assistants with physicians shall be jointly adopted by the board of medical examiners and the committee on physician assistants.

(d) A physician assistant practicing in collaboration with a licensed podiatrist:

(1) Shall not provide services that are outside of the scope of practice of a podiatrist as set forth in § 63-3-101;

(2) Shall comply with the requirements of and any rules adopted pursuant to this section and § 63-19-107 governing the collaboration with a physician assistant; and

(3) May prescribe only drugs that are rational to the practice of podiatry.

63-19-107. Practices for collaboration with physician assistants. [Effective until January 1, 2019. See the version effective on January 1, 2019.]

A licensed physician collaborating with physician assistants shall comply with the following practices:

(1) More than one (1) physician may collaborate with the same physician assistant; provided, each physician assistant shall have a primary collaborating physician and may have additional alternate collaborating physicians who shall collaborate with the physician assistant in the absence or unavailability of the primary collaborating physician. Each physician assistant shall notify the committee of the name, address, and license number of the physician assistant's primary collaborating physician and shall notify the committee of any change in such primary collaborating physician within fifteen (15) days of the change. The number of physician assistants for whom a physician may serve as the collaborating physician shall be determined by the physician at the practice level, consistent with good medical practice. The collaborating physician shall designate one (1) or more alternate physicians who have agreed to accept the responsibility of collaborating with the physician assistant on a prearranged basis in the collaborating physician's absence;

(2)(A) In accordance with rules adopted by the board and the committee, a collaborating physician may delegate to a physician assistant working in collaboration with the physician the authority to prescribe and/or issue legend drugs and controlled substances listed in Schedules II, III, IV, and V of title 39, chapter 17, part 4. The rules adopted prior to March 19, 1999, by the board and the committee governing the prescribing of legend drugs by physician assistants shall remain effective after March 19, 1999, and may be revised from time to time as deemed appropriate by the board and the committee. The board and the committee may adopt additional rules governing the prescribing of controlled substances by physician assistants. A physician assistant to whom is delegated the authority to prescribe and/or issue controlled substances must register and comply with all applicable requirements of the drug enforcement administration;

(B)(i) A physician assistant to whom the authority to prescribe legend drugs and controlled substances has been delegated by the collaborating physician shall file a notice with the committee containing the name of the physician assistant, the name of the licensed physician collaborating with the physician assistant who has responsibility for and control of prescription services rendered by the physician assistant and a copy of the formulary describing the categories of legend drugs and controlled substances to be prescribed and/or issued, by the physician assistant. The physician assistant shall be responsible for updating this information;

(ii) Notwithstanding any other rule or law, a physician assistant shall not prescribe Schedules II, III and IV controlled substances unless such prescription is specifically authorized by the formulary or expressly approved after consultation with the collaborating physician before the initial issuance of the prescription or dispensing of the medication;

(iii) Any physician assistant to whom the authority to prescribe controlled drugs has been delegated by the collaborating physician may only prescribe or issue a Schedule II or III opioid listed on the formulary for a maximum of a nonrefillable, thirty-day course of treatment, unless specifically approved after consultation with the collaborating physician before the initial issuance of the prescription or dispensing of the medication. This subdivision (2)(B)(iii) shall not apply to prescriptions issued in a hospital, a nursing home licensed under title 68, or inpatient

facilities licensed under title 33;

(C) The prescriptive practices of physician assistants and the collaborating physicians with whom such physician assistants are rendering services shall be monitored by the board and the committee. As used in this section, "monitor" does not include the regulation of the practice of medicine or the regulation of the practice of a physician assistant, but may include site visits by members of the board and committee;

(D) Any complaints against physician assistants and/or collaborating physicians shall be reported to the director of the division of health related boards, the committee on physician assistants and the board of medical examiners, as appropriate;

(E)(i) Every prescription order issued by a physician assistant pursuant to this section shall be entered in the medical records of the patient and shall be written on a preprinted prescription pad bearing the name, address and telephone number of the collaborating physician and of the physician assistant, and the physician assistant shall sign each prescription order so written. Where the preprinted prescription pad contains the names of more than one (1) physician, the physician assistant shall indicate on the prescription which of those physicians is the physician assistant's primary collaborating physician by placing a checkmark beside or a circle around the name of that physician;

(ii) Any handwritten prescription order for a drug prepared by a physician assistant who is authorized by law to prescribe a drug must be legible so that it is comprehensible by the pharmacist who fills the prescription. The handwritten prescription order must contain the name of the prescribing physician assistant, the name and strength of the drug prescribed, the quantity of the drug prescribed, handwritten in letters or in numerals, instructions for the proper use of the drug and the month and day that the prescription order was issued, recorded in letters or in numerals or a combination thereof. The prescribing physician assistant must sign the handwritten prescription order on the day it is issued, unless it is a standing order issued in a hospital, a nursing home or an assisted care living facility as defined in § 68-11-201;

(iii) Any typed or computer-generated prescription order for a drug issued by a physician assistant who is authorized by law to prescribe a drug must be legible so that it is comprehensible by the pharmacist who fills the prescription order. The typed or computer-generated prescription order must contain the name of the prescribing physician assistant, the name and strength of the drug prescribed, the quantity of the drug prescribed, recorded in letters or in numerals, instructions for the proper use of the drug and the month and day that the typed or computer-generated prescription order was issued, recorded in letters or in numerals or a combination thereof. The prescribing physician assistant must sign the typed or computer-generated prescription order on the day it is issued, unless it is a standing order issued in a hospital, nursing home or an assisted care living facility as defined in § 68-11-201;

(iv) Nothing in this section shall be construed to prevent a physician assistant from issuing a verbal prescription order;

(v)*(a)* All handwritten, typed or computer-generated prescription orders must be issued on either tamper-resistant prescription paper

or printed utilizing a technology that results in a tamper-resistant prescription that meets the current centers for medicare and medicaid service guidance to state medicaid directors regarding § 7002(b) of the United States Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act of 2007, P.L. 110-28, and meets or exceeds specific TennCare requirements for tamper-resistant prescriptions;

(b) Subdivision (2)(E)(v)(*a*) shall not apply to prescriptions written for inpatients of a hospital, outpatients of a hospital where the doctor or other person authorized to write prescriptions writes the order into the hospital medical record and then the order is given directly to the hospital pharmacy and the patient never has the opportunity to handle the written order, a nursing home or an assisted care living facility as defined in § 68-11-201 or inpatients or residents of a mental health hospital or residential facility licensed under title 33 or individuals incarcerated in a local, state or federal correctional facility;

(F) No drugs shall be dispensed by a physician assistant except under the control and responsibility of the collaborating physician;

(G) Any written, printed or computer-generated prescription order for a Schedule II controlled substance prepared by a physician assistant who is authorized by law to prescribe a drug must be legibly printed or typed as a separate prescription. The written, printed or computer-generated prescription order must contain all information otherwise required by law. The prescribing physician assistant must sign the written, printed or computer-generated prescription order on the day it is issued;

(H) A physician assistant authorized to prescribe drugs under this subdivision (2), who provides services in a free or reduced fee clinic under the Volunteer Healthcare Services Act, compiled in chapter 6, part 7 of this title, may arrange for required personal review of the physician assistant's charts by a collaborating physician in the office or practice site of the physician or remotely via HIPAA-compliant electronic means rather than at the site of the clinic. For purposes of this subdivision (2)(H), "HIPAA-compliant" means that the entity has implemented technical policies and procedures for electronic information systems that meet the requirements of 45 CFR 164.312;

(3) The patient of any physician receiving services from that physician assistant shall be fully informed that the individual is a physician assistant and/or a sign shall be conspicuously placed within the office of the physician indicating that certain services may be rendered by a physician assistant;

(4) A physician who does not normally provide patient care is not authorized to collaborate with or utilize the services of a physician assistant; and

(5)(A) A physician assistant shall only perform invasive procedures involving any portion of the spine, spinal cord, sympathetic nerves of the spine or block of major peripheral nerves of the spine in any setting not licensed under title 68, chapter 11 under the direct supervision of a Tennessee physician licensed pursuant to chapter 6 or 9 of this title who is actively practicing spinal injections and has current privileges to do so at a facility licensed pursuant to title 68, chapter 11. The direct supervision provided by a physician in this subdivision (5)(A) shall only be offered by a physician who meets the qualifications established in § 63-6-244(a)(1) or

(a)(3) or § 63-9-121(a)(1) or (a)(3);

(B) For purposes of this subdivision (5), "direct supervision" is defined as being physically present in the same building as the physician assistant at the time the invasive procedure is performed;

(C) This subdivision (5) shall not apply to a physician assistant performing major joint injections except sacroiliac injections, or to performing soft tissue injections or epidurals for surgical anesthesia or labor analgesia in unlicensed settings.

63-19-107. Practices for collaboration with physician assistants. [Effective on January 1, 2019. See the version effective until January 1, 2019.]

A licensed physician collaborating with physician assistants shall comply with the following practices:

(1) More than one (1) physician may collaborate with the same physician assistant; provided, each physician assistant shall have a primary collaborating physician and may have additional alternate collaborating physicians who shall collaborate with the physician assistant in the absence or unavailability of the primary collaborating physician. Each physician assistant shall notify the committee of the name, address, and license number of the physician assistant's primary collaborating physician and shall notify the committee of any change in such primary collaborating physician within fifteen (15) days of the change. The number of physician assistants for whom a physician may serve as the collaborating physician shall be determined by the physician at the practice level, consistent with good medical practice. The collaborating physician shall designate one (1) or more alternate physicians who have agreed to accept the responsibility of collaborating with the physician assistant on a prearranged basis in the collaborating physician's absence;

(2)(A) In accordance with rules adopted by the board and the committee, a collaborating physician may delegate to a physician assistant working in collaboration with the physician the authority to prescribe and/or issue legend drugs and controlled substances listed in Schedules II, III, IV, and V of title 39, chapter 17, part 4. The rules adopted prior to March 19, 1999, by the board and the committee governing the prescribing of legend drugs by physician assistants shall remain effective after March 19, 1999, and may be revised from time to time as deemed appropriate by the board and the committee. The board and the committee may adopt additional rules governing the prescribing of controlled substances by physician assistants. A physician assistant to whom is delegated the authority to prescribe and/or issue controlled substances must register and comply with all applicable requirements of the drug enforcement administration;

(B)(i) A physician assistant to whom the authority to prescribe legend drugs and controlled substances has been delegated by the collaborating physician shall file a notice with the committee containing the name of the physician assistant, the name of the licensed physician collaborating with the physician assistant who has responsibility for and control of prescription services rendered by the physician assistant and a copy of the formulary describing the categories of legend drugs and controlled substances to be prescribed and/or issued, by the physician assistant. The physician assistant shall be responsible for updating this

information;

(ii) Notwithstanding any other rule or law, a physician assistant shall not prescribe Schedules II, III and IV controlled substances unless such prescription is specifically authorized by the formulary or expressly approved after consultation with the collaborating physician before the initial issuance of the prescription or dispensing of the medication;

(iii) Any physician assistant to whom the authority to prescribe controlled drugs has been delegated by the collaborating physician may only prescribe or issue a Schedule II or III opioid listed on the formulary for a maximum of a nonrefillable, thirty-day course of treatment, unless specifically approved after consultation with the collaborating physician before the initial issuance of the prescription or dispensing of the medication. This subdivision (2)(B)(iii) shall not apply to prescriptions issued in a hospital, a nursing home licensed under title 68, or inpatient facilities licensed under title 33;

(C) The prescriptive practices of physician assistants and the collaborating physicians with whom such physician assistants are rendering services shall be monitored by the board and the committee. As used in this section, "monitor" does not include the regulation of the practice of medicine or the regulation of the practice of a physician assistant, but may include site visits by members of the board and committee;

(D) Any complaints against physician assistants and/or collaborating physicians shall be reported to the director of the division of health related boards, the committee on physician assistants and the board of medical examiners, as appropriate;

(E)(i) Every prescription order issued by a physician assistant pursuant to this section shall be entered in the medical records of the patient and shall be written on a preprinted prescription pad bearing the name, address and telephone number of the collaborating physician and of the physician assistant, and the physician assistant shall sign each prescription order so written. Where the preprinted prescription pad contains the names of more than one (1) physician, the physician assistant shall indicate on the prescription which of those physicians is the physician assistant's primary collaborating physician by placing a checkmark beside or a circle around the name of that physician;

(ii) Any handwritten prescription order for a drug prepared by a physician assistant who is authorized by law to prescribe a drug must be legible so that it is comprehensible by the pharmacist who fills the prescription. The handwritten prescription order must contain the name of the prescribing physician assistant, the name and strength of the drug prescribed, the quantity of the drug prescribed, handwritten in letters or in numerals, instructions for the proper use of the drug and the month and day that the prescription order was issued, recorded in letters or in numerals or a combination thereof. The prescribing physician assistant must sign the handwritten prescription order on the day it is issued, unless it is a standing order issued in a hospital, a nursing home or an assisted care living facility as defined in § 68-11-201;

(iii) Any typed or computer-generated prescription order for a drug issued by a physician assistant who is authorized by law to prescribe a drug must be legible so that it is comprehensible by the pharmacist who fills the prescription order. The typed or computer-generated prescription

order must contain the name of the prescribing physician assistant, the name and strength of the drug prescribed, the quantity of the drug prescribed, recorded in letters or in numerals, instructions for the proper use of the drug and the month and day that the typed or computer-generated prescription order was issued, recorded in letters or in numerals or a combination thereof. The prescribing physician assistant must sign the typed or computer-generated prescription order on the day it is issued, unless it is a standing order issued in a hospital, nursing home or an assisted care living facility as defined in § 68-11-201;

(iv) Nothing in this section shall be construed to prevent a physician assistant from issuing a verbal prescription order;

*(v)**(a)** All handwritten, typed or computer-generated prescription orders must be issued on either tamper-resistant prescription paper or printed utilizing a technology that results in a tamper-resistant prescription that meets the current centers for medicare and medicaid service guidance to state medicaid directors regarding § 7002(b) of the United States Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act of 2007, P.L. 110-28, and meets or exceeds specific TennCare requirements for tamper-resistant prescriptions;*

***(b)** Subdivision (2)(E)(v)(**a**) shall not apply to prescriptions written for inpatients of a hospital, outpatients of a hospital where the doctor or other person authorized to write prescriptions writes the order into the hospital medical record and then the order is given directly to the hospital pharmacy and the patient never has the opportunity to handle the written order, a nursing home or an assisted care living facility as defined in § 68-11-201 or inpatients or residents of a mental health hospital or residential facility licensed under title 33 or individuals incarcerated in a local, state or federal correctional facility;*

(F) No drugs shall be dispensed by a physician assistant except under the control and responsibility of the collaborating physician;

(G) [Deleted by 2018 amendment.]

(H) A physician assistant authorized to prescribe drugs under this subdivision (2), who provides services in a free or reduced fee clinic under the Volunteer Healthcare Services Act, compiled in chapter 6, part 7 of this title, may arrange for required personal review of the physician assistant's charts by a collaborating physician in the office or practice site of the physician or remotely via HIPAA-compliant electronic means rather than at the site of the clinic. For purposes of this subdivision (2)(H), "HIPAA-compliant" means that the entity has implemented technical policies and procedures for electronic information systems that meet the requirements of 45 CFR 164.312;

(3) The patient of any physician receiving services from that physician assistant shall be fully informed that the individual is a physician assistant and/or a sign shall be conspicuously placed within the office of the physician indicating that certain services may be rendered by a physician assistant;

(4) A physician who does not normally provide patient care is not authorized to collaborate with or utilize the services of a physician assistant; and

(5)(A) A physician assistant shall only perform invasive procedures involving any portion of the spine, spinal cord, sympathetic nerves of the spine or block of major peripheral nerves of the spine in any setting not licensed

under title 68, chapter 11 under the direct supervision of a Tennessee physician licensed pursuant to chapter 6 or 9 of this title who is actively practicing spinal injections and has current privileges to do so at a facility licensed pursuant to title 68, chapter 11. The direct supervision provided by a physician in this subdivision (5)(A) shall only be offered by a physician who meets the qualifications established in § 63-6-244(a)(1) or (a)(3) or § 63-9-121(a)(1) or (a)(3);

(B) For purposes of this subdivision (5), "direct supervision" is defined as being physically present in the same building as the physician assistant at the time the invasive procedure is performed;

(C) This subdivision (5) shall not apply to a physician assistant performing major joint injections except sacroiliac injections, or to performing soft tissue injections or epidurals for surgical anesthesia or labor analgesia in unlicensed settings.

63-19-203. Collaboration with orthopedic physician assistant.

(a) A licensed orthopedic physician assistant is authorized to perform services only in collaboration with a licensed orthopedic physician or surgeon within the specialty of orthopedic medicine and surgery, or in collaboration with a licensed podiatrist.

(b) Collaboration between a collaborating physician and a licensed orthopedic physician assistant shall require active and continuous overview by the collaborating physician to ensure that the physician's directions, orders, and advice are in fact being implemented, but does not require the constant physical presence of the collaborating physician. The collaborating physician shall, however, make a personal review of historical, physical, and therapeutic data on all patients and their condition and so certify by personal signature in a timely manner.

(c) An orthopedic physician assistant collaborating with a licensed podiatrist:

(1) Shall not provide services that are outside of the scope of practice of a podiatrist as set forth in § 63-3-101; and

(2) Shall comply with the requirements of and any rules adopted pursuant to §§ 63-19-203 — 63-19-205 governing collaboration with a physician assistant.

63-19-204. Standard of care.

(a) The licensed orthopedic physician assistant shall function in accordance with written policies and procedures involving management of care that have been established by the collaborating physician and the orthopedic physician assistant.

(b) With respect to follow-up care rendered in a clinic, hospital, nursing home or patient's home and in similar situations where a therapeutic regimen, policy or protocol has been established by the collaborating physician, the licensed orthopedic physician assistant may check and record the patient's progress within the confines of the written regimen, policy or protocol and report the patient's progress and changes to the physician after each visit. When a new problem arises, the collaborating physician shall undertake personal review of the patient's problem or complaint.

(c) The orthopedic physician assistant may render emergency services in

accordance with guidelines previously established by the collaborating physician, pending the arrival of a responsible physician in cases where immediate diagnosis and treatment are necessary to avoid disability or death.

63-19-205. Practices of collaborating physician.

A licensed physician who is collaborating with orthopedic physician assistants shall comply with the following practices:

(1) No one (1) collaborating physician shall collaborate with more than two (2) licensed orthopedic physician assistants at any one time;

(2) More than one (1) physician may collaborate with the same licensed orthopedic physician assistant;

(3) The collaborating physician shall designate one (1) or more alternate physicians who have agreed to accept the responsibility of collaborating with the orthopedic physician assistant on a prearranged basis in the absence of the collaborating physician;

(4) The licensed orthopedic physician assistant shall render services and care commensurate with such orthopedic assistant's education, training and experience;

(5) The licensed orthopedic physician assistant shall not make any definitive diagnosis or prescribe any treatment program independent of the collaborating physician;

(6) Pre-signed prescriptions shall not be used by the licensed orthopedic physician assistant. Medications dispensed by the licensed orthopedic physician assistant shall be approved by the collaborating physician; and

(7) The patient of any physician receiving services from a licensed orthopedic physician assistant shall be fully informed that the individual is a licensed orthopedic physician assistant and/or a sign shall be conspicuously placed within the office of the physician indicating that certain services may be rendered by a licensed orthopedic physician assistant.

63-22-110. Denial, withholding, restricting or revoking licensure or certification — Disciplinary actions — Unprofessional conduct.

(a) The board has the power to:

(1) Deny an application for a license to any applicant who applies for the same through reciprocity or otherwise;

(2) Permanently or temporarily withhold issuance of a license or certificate;

(3) Suspend, limit or restrict a previously issued license or certificate for such time and in such manner as the board may determine;

(4) Reprimand or take such action in relation to disciplining an applicant or license or certificate holder as the board in its discretion may deem proper; or

(5) Permanently revoke a license or certificate.

(b) The grounds upon which the board shall exercise such power includes, but is not limited to, the following:

(1) Conviction of a felony;

(2) Using fraud or deception in applying for a license or certificate or in taking an examination required by this part;

(3) Violating the rules and regulations adopted by the board, except that a violation of A.11.b of the 2014 American Counseling Association Code of

Ethics, or any similar or successor provision, shall not be grounds upon which the board shall exercise its powers pursuant to subsection (a); provided, however, that a violation of A.11.b shall be a ground for the board to exercise these powers in cases involving an individual seeking or undergoing counseling where the individual was in imminent danger of harming themselves or others; or

(4) Engaging in professional misconduct, unethical or unprofessional conduct, including, but not limited to, willful acts, negligence and conduct likely to deceive, defraud or harm the public or engaged in such conduct.

(c) The board has the power to:

(1) Deny an application for a license to any marital and family therapist applicant who applies for the same through reciprocity or otherwise where the applicant does not meet the standards in this part;

(2) Permanently or temporarily withhold issuance of a marital and family therapist license where the applicant does not meet the standards in this part;

(3) Suspend, limit or restrict a previously issued license or certificate for such time and in such manner as the board may determine;

(4) Reprimand or take such action in relation to disciplining an applicant or license holder or certificate holder as the board in its discretion may deem proper; or

(5) Permanently revoke a license or certificate.

(d) An action taken under this section shall be subject to the applicable provisions of the Fresh Start Act that are compiled in chapter 1, part 1 of this title.

63-23-108. Denial, suspension or revocation of licenses.

(a) The board has the power, which is its duty, to deny, suspend or revoke any license, or to otherwise discipline, an applicant or holder of a license who is found guilty by the board of one (1) or more of the following:

(1) Willful or repeated violation of any provisions of this chapter or any rules of the board;

(2) Fraud or deceit in procuring or attempting to procure a license, presenting to the board dishonest or fraudulent evidence of qualification, or fraud or deception in the process of examination for the purpose of securing a license;

(3) Willful failure to display a license;

(4) Fraud, deception, misrepresentation, dishonest or illegal practices in or connected with the practice of social work;

(5) Circulating knowingly untrue, fraudulent, misleading or deceptive advertising;

(6) Gross health care liability, or a pattern of continued or repeated health care liability, ignorance, negligence or incompetence in the course of practice;

(7) Unprofessional or unethical conduct, or engaging in practices in connection with the practice of social work that are in violation of the standards of professional conduct, as defined in this section or prescribed by the rules of the board;

(8) Incapacity or impairment that prevents a licensee from engaging in the practice of social work with reasonable skill, competence, and safety to the public;

(9) Conduct reflecting unfavorably upon the profession of social work;

(10) Willful making of any false statement as to material in any oath or affidavit that is required by this chapter;

(11) Revocation by another state of a license or certificate to practice in that state in which case the record of the revocation shall be conclusive evidence;

(12) Conviction of a felony under federal or state law involving use, misuse, possession or sale of any controlled substance or controlled substance analogue;

(13) Conviction of a felony in the courts of this state or any other state, territory or country that, if committed in this state, would be a felony:

(A) The record of conviction in a court of competent jurisdiction is sufficient evidence for disciplinary action to be taken as may be considered proper by the board. For the purpose of this chapter, a conviction is considered to be a conviction that has been upheld by the highest appellate court having jurisdiction, or a conviction upon which the time for filing an appeal has passed; and

(B) A record of conviction upon charges that involve unlawful practice. Based upon the record of conviction, without any other testimony, the board may take temporary disciplinary action even though an appeal for review by a higher court may be pending;

(14) Permitting or allowing another to use the license for the purpose of treating or offering to treat patients;

(15) Engaging in practice under a false or assumed name, or the impersonation of another practitioner of a like, similar or different name;

(16) Employing or permitting any person who does not hold a license to practice social work in this state to perform work that, under this chapter, can lawfully be done only by persons holding the license and permitted by law to practice social work in this state; or

(17) Addiction to the habitual use of intoxicating liquors, narcotics or other stimulants to such an extent as to incapacitate the applicant or holder from the performance of the applicant's or holder's professional obligations and duties.

(b) The board may on its own motion cause to be investigated any report indicating that a license holder is or may be in violation of this chapter. Any person who in good faith reports to the board any information that a license holder is or may be in violation of this chapter is not subject to suit for civil damages as a result of the good faith report.

(c) All administrative proceedings for disciplinary action against a licensee undertaken pursuant to this chapter shall be conducted in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(d) An action taken under this section shall be subject to the applicable provisions of the Fresh Start Act that are compiled in chapter 1, part 1 of this title.

63-24-107. Denial, suspension or revocation of licensure.

(a) The board has the power and duty to:

(1) Deny, restrict or condition a license to any applicant who applies for the license through reciprocity or otherwise;

(2) Permanently or temporarily withhold issuance of a license;

(3) Suspend, limit or restrict a previously issued license for such time and in such manner as the board may determine;

(4) Reprimand, suspend, revoke or take such other disciplinary action in relation to an applicant or license holder as the board in its discretion may deem proper; or

(5) Permanently revoke a license.

(b) The grounds upon which the board shall exercise such power include, but are not limited to, circumstances in which the person has:

(1) Violated standards of practice as determined by the board;

(2) Practiced athletic training for compensation without holding an active license under this chapter;

(3) Used or attempted to use an athletic trainer license that has been suspended or revoked;

(4) Obtained or attempted to obtain an athletic trainer license by misleading statements, fraud or deceit or knowing misrepresentation;

(5) Used the title "athletic trainer" without being licensed under this chapter;

(6) Violated or conspired to violate this chapter, or rules and regulations promulgated pursuant to this chapter; or

(7) Been convicted of a felony for the commission of an offense that bears directly on the person's fitness to practice competently, as determined by the board.

(c) An action taken under this section shall be subject to the applicable provisions of the Fresh Start Act that are compiled in chapter 1, part 1 of this title.

63-25-110. Disciplinary action.

(a) The board is empowered to deny or refuse to renew a license, or suspend or revoke a license or permit, or issue orders to cease and desist from certain conduct or to otherwise lawfully discipline an applicant, a licensee, a permittee or a person found guilty of violating any provisions of this chapter when such person has:

(1) Attempted or obtained licensure by fraud or misrepresentation;

(2) Engaged in unethical or unprofessional conduct, including, but not limited to, willful acts, negligence or a pattern of continued and repeated health care liability, negligence or incompetence in the course of professional practice;

(3) Engaged in habitual intoxication or personal misuse of any drug, narcotic, controlled substance or controlled substance analogue so as to adversely affect the person's ability to practice;

(4) Been convicted of a felony or any offense under state or federal laws involving moral turpitude;

(5) Violated any lawful order, rule or regulation rendered or adopted by the board; or

(6) Violated any provision of this chapter.

(b) All administrative proceedings for disciplinary action against a license holder or permittee shall be conducted by the board in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(c) The board shall promulgate rules governing the assessment of costs against a licensee or other person found by the board to have violated any

provision of this chapter. The costs assessed by the board may include only those costs directly related to the prosecution of the charges against the licensee or other person, including investigatory costs where appropriate. The board shall determine the appropriate amount of costs, if any, to be assessed in a contested case. These costs shall be reasonable and proportionate in light of the violation committed by the licensee or other person.

(d)(1) Any elected officer of the board, or any duly appointed or elected chair has the authority to administer oaths to witnesses. Upon probable cause being established, the board, by a vote of two thirds (⅔) of the members to which the board is entitled, may issue subpoenas for the attendance of witnesses and the production of documents and records.

(2) Service of a subpoena issued by the board shall be made by the sheriff of the county of residence of the licensee or person upon whom the subpoena is served.

(3)(A) A licensee or person served by subpoena shall have thirty (30) days to request in writing a hearing before the board for the sole purpose of making a special appearance to quash or modify the subpoena. The subpoena for attendance of the person or the production of books and records shall be stayed until the board votes upon the request to quash or modify the subpoena. A majority vote of the members to which the board is entitled shall be required to quash or modify a subpoena.

(B) A motion to appeal from a decision by the board regarding a request to quash or modify a subpoena shall be made to the chancery court in Davidson County within fifteen (15) days of such decision.

(4) If any witness fails or refuses to obey a subpoena issued by it, the board is authorized to make application to any court of record in this state within the jurisdiction of which the witness is found or resides, and the court shall have power to attach the body of the witness and compel the witness to appear before the board and give testimony or produce books, records or papers as ordered. Any failure to obey the court order may be punished by the court issuing the order as a civil contempt.

(5) Each witness who appears before the board by order of the board shall receive for attendance the compensation provided by law for attendance of witnesses in a court of record, which shall be paid from the funds of the board in the same manner as all other expenses of the board are paid.

(e) An action taken under this section shall be subject to the applicable provisions of the Fresh Start Act that are compiled in chapter 1, part 1 of this title.

63-26-123. Grounds for suspending, revoking or denying a license.

(a) The commissioner has the authority to suspend, revoke or otherwise deny a license whenever a licensee is found guilty of any of the following acts or offenses:

(1) Fraud in procuring a license;

(2) Conviction of a felony;

(3) Habitual intoxication or addiction to the use of narcotic drugs or controlled substances or controlled substance analogues;

(4) Immoral, unprofessional, unethical or dishonorable conduct; or

(5) Professional connection or association with any person, firm or corporation in any manner in an effort to avoid and circumvent this chapter, or lending one's name to another for the illegal practice of electrology by such

person.

(b) An action taken under this section shall be subject to the applicable provisions of the Fresh Start Act that are compiled in chapter 1, part 1 of this title.

63-27-112. Disciplinary sanctions — Complaints of violations — Civil penalties — Use of witnesses.

(a) The board has the power to impose any of the disciplinary sanctions set forth in this section whenever the licensee is found guilty of violating this chapter or committing any of the following acts or offenses:

(1) Making false or misleading statements or committing fraud in procuring a license;

(2) Immoral, unethical, unprofessional or dishonorable conduct;

(3) Habitual intoxication or personal misuse of narcotics, controlled substances, controlled substance analogues or any other drugs or the use of alcoholic beverages or stimulants in such manner as to adversely affect the person's ability to practice respiratory care;

(4) Conviction of a felony or of any offense involving moral turpitude or of any violation of the drug laws of this state or of the United States;

(5) Violation or attempted violation, directly or indirectly, assisting in or abetting the violation of, or conspiring to violate, any provision of this chapter or any lawful order of the board or any criminal statute of this state;

(6) Gross health care liability, ignorance, negligence or incompetence in the course of professional practice;

(7) Making or signing in one's professional capacity any document that is known to be false at the time it is made or signed;

(8) Engaging in the practice of respiratory care when mentally or physically unable to safely do so;

(9) Making false statements or representations or being guilty of fraud or deceit in the practice of respiratory care;

(10) Having disciplinary action imposed by another state or territory of the United States for any acts or omissions that would constitute grounds for discipline of a person licensed to practice respiratory care in this state; provided, further, that a certified copy of the order or other document memorializing the disciplinary action by the other state or territory shall constitute prima facie evidence of a violation of this section; or

(11) Any other unprofessional or unethical conduct specified in the rules of the board.

(b) Complaints alleging violations of this chapter, or any rule duly promulgated pursuant to § 63-27-104, shall be filed with the board, shall be referred by the board to the division for investigation, and shall be resolved by the board in accordance with this chapter and the Uniform Administrative Procedures Act, compiled in title 4, chapter 5. A file shall be maintained on each such complaint filed with the board and shall reflect all activities taken by the board and division in response to such complaint.

(c) The board may impose one (1) or more of the following penalties for violations of this chapter or any rule duly promulgated pursuant to § 63-27-104:

(1) Denial of an application for licensure;

(2) Revocation or suspension of licensure;

(3) Imposition of an administrative fine not to exceed five hundred dollars ($500) for each count or separate offense;

(4) Placement of the certified respiratory therapist, respiratory assistant or registered respiratory therapist on probation for such length of time and subject to such conditions as the board may specify, including requiring the certified respiratory therapist, respiratory assistant or registered respiratory therapist to submit to treatment, to attend continuing education courses, or to work under the supervision of another certified respiratory therapist or registered respiratory therapist; or

(5) Issuance of a reprimand.

(d) The board shall be empowered to refuse to reinstate licensure or cause a license to be issued to a person it has deemed unqualified, until such time as it finds that such person has complied with all the terms and conditions set forth in the final order rendered pursuant to subsection (a) and that the respiratory assistant, certified respiratory therapist or registered respiratory therapist is capable of safely engaging in the delivery of respiratory care services.

(e) The chair of the board has the authority to administer oaths to witnesses and, upon probable cause being established, to issue subpoenas for the attendance of witnesses and the production of documents and records.

(f) An action taken under this section shall be subject to the applicable provisions of the Fresh Start Act that are compiled in chapter 1, part 1 of this title.

63-28-117. Revocation or suspension of licenses — Probation of licensees.

(a) The committee shall revoke or suspend a license, place on probation a person whose license has been suspended, or reprimand a license holder if there is proof of:

(1) Any violation of this chapter;

(2) Any violation of a rule or code of ethics adopted by the committee; or

(3) Unprofessional conduct, which includes, but is not limited to:

(A) Incompetence or gross negligence in carrying out usual perfusion functions;

(B) A conviction of practicing perfusion without a license or a provisional license;

(C) The use of advertising relating to perfusion in a way that violates state law;

(D) Procuring a license or provisional license by fraud, misrepresentation or mistake;

(E) Making or giving any false statement or information in connection with the application for a license or provisional license;

(F) Conviction of a felony or of any offense substantially related to the qualifications, functions and duties of a perfusionist, in which event the record of the conviction shall be conclusive evidence of such offense; or

(G) Impersonating an applicant or acting as proxy for an applicant in any examination required pursuant to this chapter for the issuance of a license.

(b) An action taken under this section shall be subject to the applicable provisions of the Fresh Start Act that are compiled in chapter 1, part 1 of this title.

63-30-103. Registration.

(a) No person shall engage in the practice of reflexology unless such person has registered with the division of health-related boards.

(b) No person shall be registered to practice reflexology unless such person completes all necessary application forms and can demonstrate to the satisfaction of the division that such person complies with the criteria specified in this chapter.

(c) Any person who desires registration as a certified reflexologist shall submit an application to the division on the prescribed forms. The application shall be accompanied by:

(1) Documentation of completion of a two hundred (200) hour reflexology only course offered by an institution approved by the Tennessee higher education commission or its equivalent in other states;

(2) Proof that the applicant has attained eighteen (18) years of age;

(3) Two (2) character references stating that the applicant is of good moral character;

(4) A statement certifying that the applicant has not been convicted of a felony under the laws of this state or any other state for the commission of an offense that bears directly on the applicant's fitness to practice competently, as determined by the division. However, such determination shall be subject to the applicable provisions of the Fresh Start Act that are compiled in chapter 1, part 1 of this title; and

(5) All required fees.

63-30-111. Revocation or suspension of registration — Civil penalties — Complaints.

(a) The registration of a certified reflexologist may be revoked or suspended by the division or the division may impose a civil penalty upon a finding that the person is guilty of any one (1) or more of the following:

(1) The practitioner is guilty of gross health care liability or incompetence;

(2) The practitioner's mental or physical health endangers public health or safety;

(3) The practitioner is guilty of false or deceptive advertising;

(4) The practitioner engages in unprofessional conduct;

(5) The practitioner falsifies any requirements for registration as set forth;

(6) The practitioner is convicted of a felony for the commission of an offense that bears directly on the practitioner's fitness to practice competently, as determined by the division;

(7) The practitioner is subject to disciplinary action in another state; or

(8) The unauthorized practice of reflexology.

(b) Any person may file with the department of health's office of investigations a written complaint against a registered reflexologist for any violation of this chapter.

(c) Complaints alleging violations of this chapter, or any rule duly promulgated pursuant to § 63-30-112, shall be filed with the division, and shall be resolved by the division in accordance with this chapter and the Uniform Administrative Procedures Act, compiled in title 4, chapter 5. A file shall be maintained on each such complaint filed with the division and shall reflect all activities taken by the division in response to such complaint.

(d) An action taken under this section shall be subject to the applicable

provisions of the Fresh Start Act that are compiled in chapter 1, part 1 of this title.

63-31-109. Power of board to impose sanctions.

(a) The board has the power to impose any sanctions on a licensee, up to and including license revocation, if the licensee is found guilty of violating any of the provisions of this chapter or of committing any of the following acts or offenses:

(1) Making false or misleading statements or committing fraud in procuring a license;

(2) Moral turpitude;

(3) Habitual intoxication or personal misuse of narcotics, controlled substances, controlled substance analogues or any other drugs or the use of alcoholic beverages or stimulants in a manner that adversely affects the person's ability to practice polysomnography;

(4) Conviction of a felony or of any offense involving moral turpitude or any violation of the drug laws of this or any other state or of the United States;

(5) Violation or attempted violation, directly or indirectly, assisting in or abetting the violation of, or conspiring to violate, this chapter or any lawful order of the board or any criminal statute of this state;

(6) Gross health care liability, ignorance, negligence or incompetence in the course of professional practice;

(7) Making or signing in one's professional capacity any document that is known to be false at the time it is made or signed;

(8) Engaging in the practice of polysomnography when mentally or physically unable to safely do so;

(9) Making false statements or representations or being guilty of fraud or deceit in the practice of polysomnography when mentally or physically unable to safely do so;

(10) Having disciplinary action imposed by another state or territory of the United States for any acts or omissions that would constitute grounds for discipline of a person licensed to practice polysomnography in this state; provided, that a certified copy of the order or other document memorializing the disciplinary action by the other state or territory constitutes prima facie evidence of a violation of this section;

(11) Undertaking any duties that are outside the authorized scope of practice of a licensed polysomnographic technologist, as set forth in this chapter;

(12) Violating the code of ethics adopted by the committee for polysomnographic technologists;

(13) Use or attempted use of a polysomnographic procedure or equipment for which the licensee has not received sufficient education or training in the proper use of that procedure or equipment;

(14) Promoting the sale of services, drugs, devices, appliances, or goods to a patient to exploit the patient for financial gain;

(15) Willfully failing to file, or willfully impeding the filing of, any report or record that is required by law;

(16) Knowingly engaging in the practice of polysomnography with an unlicensed person, knowingly aiding an unlicensed person in the practice of polysomnography, or knowingly delegating a task involved in the practice of

polysomnography to an unlicensed person;

(17) Knowingly failing to meet appropriate standards for the delivery of polysomnographic services;

(18) Breaching patient confidentiality;

(19) Paying or agreeing to pay any sum or providing any form of remuneration or material benefit to any person for bringing or referring a patient, or accepting or agreeing to accept any form of remuneration or material benefit from a person for bringing or referring a patient; or

(20) Any other unprofessional or unethical conduct specified in the rules of the board.

(b) An action taken under this section shall be subject to the applicable provisions of the Fresh Start Act that are compiled in chapter 1, part 1 of this title.

63-32-105. Information for public dissemination.

(a) Each board regulating a provider, as defined in § 63-32-102, shall collect the following information and provide to the department of health in order for the department to create individual profiles on licensees, in a format created by the department that shall be available for dissemination to the public:

(1) A description of any criminal convictions for felonies and, as determined by the board, serious misdemeanors, within the most recent ten (10) years. For the purposes of this subsection (a), a person shall be deemed to be convicted of a crime if such person was found or adjudged guilty by a court of competent jurisdiction. Misdemeanor convictions later expunged by a court of competent jurisdiction shall be stricken from the provider's profile;

(2) A description of any final board disciplinary actions within the most recent ten (10) years, which actions shall include final board action as defined by § 4-5-314, and reprimand action taken pursuant to a board practice act;

(3) A description of any final disciplinary actions of licensing boards in other states within the most recent ten (10) years;

(4) A description of revocation or involuntary restriction of hospital privileges for reasons related to competence or character that has been taken by the hospital's governing body or any other official action of the hospital after procedural due process has been afforded, or the resignation from or nonrenewal of medical staff membership or the restriction of privileges at a hospital taken in lieu of or in settlement of a pending disciplinary case related to competence or character in that hospital, all as taken pursuant to procedures promulgated by the board for licensing health care facilities. Only cases that have occurred within the most recent ten (10) years shall be disclosed by the department to the public;

(5)(A) All health care liability court judgments, all health care liability arbitration awards in which a payment is awarded to a complaining party and all settlements of health care liability claims in which a payment is made to a complaining party beginning with reports for 1998 and each subsequent year; provided, such reports shall not be disseminated beyond the most recent ten-year period, but shall include the most recent ten-year period for which reports have been filed. Each provider licensing board shall set by rule adopted pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, a threshold amount below which

judgments or settlements shall not be reportable; provided, such threshold shall, for chapter 6 or 9 of this title licensees, be set at seventy-five thousand dollars ($75,000), for doctors of chiropractic, regulated pursuant to chapter 4 of this title, be set at fifty thousand dollars ($50,000), for dentists, regulated pursuant to chapter 5 of this title, be set at twenty-five thousand dollars ($25,000), and for all other licensees under this title be set at ten thousand dollars ($10,000). Dispositions of paid claims shall be reported in a minimum of three (3) graduated categories indicating the level of significance of the award or settlement. Information concerning paid health care liability claims shall be put in context by comparing an individual licensee's health care liability judgment awards and settlements to the experience of other providers within the same specialty. Information concerning the existence of a court-sealed settlement shall be reported in cases involving such a settlement. Information concerning all settlements shall be accompanied by the following statement: "Settlement of a claim may occur for a variety of reasons which do not necessarily reflect negatively on the professional competence or conduct of the provider. A payment in settlement of a health care liability action or claim should not be construed as creating a presumption that health care liability has occurred." Nothing in this subdivision (a)(5) shall be construed to limit or prevent the department from providing further explanatory information regarding the significance of categories in which settlements are reported;

(B) Pending health care liability claims shall not be disclosed by a board to the public. Nothing in this subdivision (a)(5) shall be construed to prevent a board from investigating and disciplining a licensee on the basis of health care liability claims that are pending;

(6) Names of medical schools or professional and training schools and dates of graduation;

(7) Graduate medical education or other graduate-level training;

(8) Specialty board certification as determined by the relevant board;

(9) Names of the hospitals where the licensee has privileges;

(10) Appointments to medical school faculties and indication as to whether a licensee has a responsibility for graduate medical education within the most recent ten (10) years;

(11) Information regarding publications in peer-reviewed medical literature;

(12) Information regarding professional or community service associations, activities and awards;

(13) The location of the licensee's primary practice setting;

(14) The identification of any translating services that may be available at the licensee's primary practice location;

(15) An indication of which managed care plans in which the licensee participates;

(16) An indication of TennCare plans in which the licensee participates;

(17) No information that is otherwise privileged under this title, and that is generated by any peer review program, provider health program, or impaired professionals program operated or administered by a provider association or foundation that such association has created for peer review purposes, shall be included in any profile unless such information is not contemplated by the particular title 63 statute as being privileged;

(18) For the profile of a holder of a certificate of fitness pursuant to § 63-7-123, the name of the holder's collaborating physician; and

(19) For any physician assistant licensed under § 63-19-105, the name of the assistant's collaborating physician.

(b) Each board shall provide individual licensees with a copy of their profiles prior to release to the public. A licensee shall be provided a reasonable time to correct factual inaccuracies that appear in such profile.

(c) A provider may elect to have the provider's profile omit certain information provided pursuant to subdivisions (a)(10)-(12), inclusive, concerning academic appointments and teaching responsibilities, publications in peer-reviewed journals and professional and community service awards. In collecting information for such profiles and in disseminating such profiles, each board shall inform providers that they may choose not to provide such information required pursuant to subdivisions (a)(10)-(12), inclusive.

(d) The department shall develop formats for dissemination of such information to the public, which, at a minimum shall include electronic media, including the World Wide Web of the internet, and a toll-free telephone line.

(e) On or before January 1, 1999, the division of health related boards of the department shall become a participant in the national practitioners databank.

(f) Individual profiles posted pursuant to § 63-32-107 shall not contain the licensee's home address and social security number, unless such home address is provided by the licensee, along with a request that it be contained in the profile, as their official mailing or practice address. Notwithstanding this subsection (f), a record containing the home address of the licensee on file with the department of health concerning this chapter shall continue to remain a public record.

63-32-115. Compiling and dissemination of information — Liability of the department of health.

(a) Under this chapter, the department of health only compiles information. The department shall not vouch for or assert the accuracy of any information it disseminates under this chapter. Before the department disseminates information to consumers under this chapter, the department shall permit each provider, hospital, or managed care organization, whose information is to be disseminated, the opportunity to review and correct any information the department proposes to disseminate. The department shall also allow a collaborating physician at any time the opportunity to review, accept, and update the existence of a collaborating relationship between the physician and a physician assistant licensed under § 63-19-105. The department shall also allow a collaborating physician at any time the opportunity to review, accept, and update the existence of a collaborating relationship between the physician and the holder of a certificate of fitness pursuant to § 63-7-123.

(b) On or after January 1, 2015, the collaborative relationship contained in the controlled substance database, as established in title 53, chapter 10, part 3, shall be used by the department to update provider profiles which have been established pursuant to this chapter.

(c) The department shall not be subject to any suit for damages concerning any information that the department disseminates that a provider, hospital, managed care organization, collaborating physician, or supervisory physician

had the opportunity to correct, but did not correct.

(d) Nothing contained in this section shall repeal or override the confidentiality provisions contained in title 53, chapter 10, part 3, except to the extent that the department uses the information to update the existence of:

(1) A collaborating relationship between a physician and a holder of a certificate of fitness pursuant to § 63-7-123; or

(2) A collaborating relationship between a physician and a physician assistant licensed under § 63-19-105.

64-7-102. Chapter definitions.

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

(1) [Deleted by 2018 amendment.]

(2) [Deleted by 2018 amendment.]

(3) "Comprehensive plan or general plan" means a general, broad-based long range plan or document that formulates policies and proposals to guide the growth and development of a local government. Such plans address functional elements, including, but not limited to, future land use, improvements to transportation systems, community facilities and infrastructure, as well as providing a capital improvements program and budget for implementation of these proposed improvements;

(4) "Infrastructure" means the basic network of public utilities and access facilities that support and promote land development. Water and sewerage system elements, storm drainage systems, roads, streets and highways, public transportation, pedestrian and bicycle facilities, railroads, gas and electric transmission lines, telecommunications networks and solid waste disposal sites and similar public facilities shall be included in this definition;

(5) "Local government or governments" means Cheatham, Davidson, Dickson, Houston, Humphreys, Montgomery, Robertson, Rutherford, Stewart, Sumner, Trousdale, Williamson and Wilson counties and all incorporated municipalities and metropolitan governments located within these counties;

(6) "Public agency" means the regional council, any political subdivision of this state, any agency of the state government or of the United States and any political subdivision of another state;

(7) "Regional council" means the greater Nashville regional council created by this chapter; and

(8) "Regional impact project" means:

(A) Any commercial, residential, industrial, recreational or public facility building or development, the construction or expansion of which is proposed to be located in more than one (1) local government jurisdiction and/or where the construction or expansion of the building or development is expected by the local government or by the regional council to have infrastructure impacts upon two (2) or more government jurisdictions; and

(B)(i) Upon determination that the proposed location, construction or expansion of a building or development is expected by the local government or by the regional council to have infrastructure impacts upon two (2) or more local government jurisdictions, additional quantitative measures are provided in this chapter for general reference in the determination of regional impact projects, and are not all inclusive, but shall include any:

(a) Commercial or industrial building or development aggregating two hundred fifty thousand square feet (250,000 sq. ft.) or more of floor area;

(b) Residential development of two hundred fifty (250) or more dwelling units;

(c) Recreational or public facility building or development that will generate fifteen thousand (15,000) or more additional vehicle trips per day; and

(d) Infrastructure project having the installation of water lines of greater than six inches (6″) in diameter, sewer lines greater than eight inches (8″) in diameter or road improvements that provide or increase capacity by fifteen thousand (15,000) or more vehicles per day;

(ii) The applicability of these measures in the determination of regional impact projects will vary somewhat with the location of the proposed project, but should be used by the local government jurisdictions and/or the executive committee in making such determinations. Other quantitative measures as determined by the executive committee may be utilized in determining regional impact projects.

64-7-103. Regional council — Composition — Term of office — Officers — Meetings.

(a) The regional council shall be composed of and governed by the following:

(1) County mayor of each county within the region;

(2) The mayor of each municipality within the region;

(3) The chief executive officer of any metropolitan government within the region;

(4) One (1) representative from an agency or organization dealing with problems of economic development or promotion appointed by the county mayor, county executive, or metropolitan mayor from each of the regional council's member counties;

(5) One (1) state senator selected from and by those senators whose districts are wholly or in part within the region;

(6) One (1) state representative selected from and by those representatives whose districts are wholly or in part within the region; and

(7) One (1) minority representative with knowledge of issues related to social equity and inclusion appointed by the county mayor, county executive, or metropolitan mayor from each of the regional council's member counties.

(b) The terms of office of the regional council shall be as follows:

(1) The state senator and representative shall serve on the council for two (2) years or until they leave the general assembly, whichever occurs first;

(2) All members of the regional council who are elected officials shall serve for four (4) years or until they cease to occupy the elected position entitling them to membership, whichever occurs first;

(3) All members of the regional council who are appointed by an elected official shall serve for four (4) years or until the expiration of the term of the official by whom such representative was appointed, whichever occurs first;

(4) Members may be reappointed; and

(5) A member ceases to belong to the regional council as soon as that member is no longer a member of the general assembly, the county mayor, the mayor, the chief executive officer of any metropolitan government or is

an appointee of a person who no longer holds an elected position.

(c) The officers of the regional council shall be as follows:

(1) The officers of the regional council shall be a president, vice president and treasurer, who shall be elected annually from and by the regional council membership at the annual meeting, and a secretary who shall be the person serving as executive director of the regional council;

(2) The officers shall serve a term of one (1) year;

(3) Officers may be reelected; and

(4) In the event of death or permanent disability of any of the aforementioned officers, the vacancy shall be filled by a vote of the executive board for the unexpired term of the officer for the office that was so vacated.

(d) The regional council shall meet at least annually. The time and place of each meeting shall be determined by the executive board. An annual meeting shall be held for the purpose of electing officers, reviewing programs of the council, adopting of annual work program and budget, and other items that may be necessary to the operation of the regional council.

64-7-104. Executive board — Membership.

(a) At the annual meeting, the regional council shall appoint an executive board, which shall be empowered to perform as the administrative body of the regional council and shall be empowered by the regional council to act in its stead.

(b) The membership, officers, and term of office of the executive board shall be as set forth by the organizational bylaws.

(c) In determining membership on the executive board, the regional council shall ensure representation from at least one (1) local government within each of the counties represented by the council.

64-7-111. Limitations on powers and duties of regional council.

The following are limitations on the powers and duties of the regional council:

(1) All plans shall be advisory only unless provided otherwise by federal law pertaining to the development of regional plans and programs;

(2) No authority is hereby granted to enact zoning ordinances or subdivision standards;

(3) No authority is hereby granted such that would supplant or in any way interfere or supersede the planning and development authority granted cities and counties under other applicable state statutes;

(4) Plans prepared under this part must reflect goals and objectives for harmonious development of the region and, in the case of highways, must be in accordance and coordinated with plans of the department of transportation and of the [former] state planning office;

(5) Plans prepared under this chapter shall be transmitted to all governmental bodies in the region, and these may be adopted as their own for purposes of planning and development;

(6) No authority is hereby granted for the exercise of the power of eminent domain;

(7) No authority is hereby granted to regulate the agricultural or other use of land; and

(8) No votes may be cast by proxy, and only duly appointed members of the regional council may vote.

64-8-301. Composition of metropolitan planning organization's policy board.

Each metropolitan planning organization's policy board shall ensure that one (1) voting member who resides within the metropolitan planning organization's boundaries is chosen in consultation with the Tennessee County Highway Officials Association to represent county highway departments operating within the planning area.

64-10-113. Annual audit.

(a) The board of directors of the authority shall cause an annual audit to be made of the books and records of the authority. Within thirty (30) days after receipt by the authority, a copy of the annual audit shall be filed with the board, and if the department of audit has not prepared the audit, with the comptroller of the treasury or comptroller's designee. The comptroller of the treasury, through the department of audit, shall be responsible for determining that such audits are prepared in accordance with generally accepted governmental auditing standards and that such audits meet the minimum standards prescribed by the comptroller of the treasury. The comptroller of the treasury shall prepare a uniform audit manual as is required to assure that the books and records are kept in accordance with generally accepted accounting principles and that audit standards prescribed by the comptroller of the treasury are met.

(b) These audits shall be prepared by certified public accountants or by the department of audit. In the event the governing body of the authority shall fail or refuse to have the audit prepared, then the comptroller of the treasury may appoint a certified public accountant or direct the department of audit to prepare the audit, the cost of such audit to be paid by the authority.

(c) The comptroller of the treasury is authorized to modify the requirements for an audit as set out in this section when the activity, in the comptroller of the treasury's judgment, is not sufficient to justify the expenses of a complete audit. Furthermore, the comptroller of the treasury is authorized to direct the department of audit to make an audit or financial review of the books and records of the authority.

(d) The current operating financial statements of the authority, and any other pertinent information as required by the comptroller, or the comptroller's designee, shall be submitted annually with the copy of the annual audit, or upon request, to the comptroller, or the comptroller's designee.

64-10-213. Annual audit.

(a) The board of directors of the authority shall cause an annual audit to be made of the books and records of the authority, including, but not limited to, the function of the pilot program established to support existing small business incubators in the region and to establish new small business incubators in accordance with § 64-10-223 [expired]. Within thirty (30) days after receipt by the authority, a copy of the annual audit shall be filed with the board, and if the department of audit has not prepared the audit, with the comptroller of the treasury or comptroller's designee. The comptroller of the treasury, through the department of audit, shall be responsible for determining that such audits are prepared in accordance with generally accepted governmental auditing

standards and that such audits meet the minimum standards prescribed by the comptroller of the treasury. The comptroller of the treasury shall prepare a uniform audit manual as is required to assure that the books and records are kept in accordance with generally accepted accounting principles and that audit standards prescribed by the comptroller of the treasury are met.

(b) These audits shall be prepared by either certified public accountants or by the department of audit. In the event the governing body of the authority shall fail or refuse to have the audit prepared, then the comptroller of the treasury may appoint a certified public accountant or direct the department of audit to prepare the audit, the cost of such audit to be paid by the authority.

(c) The comptroller of the treasury is authorized to modify the requirements for an audit as set out in this section when the activity, in the comptroller of the treasury's judgment, is not sufficient to justify the expenses of a complete audit. Furthermore, the comptroller of the treasury is authorized to direct the department of audit to make an audit or financial review of the books and records of the authority.

(d) The current operating financial statements of the authority, and any other pertinent information as required by the comptroller, or the comptroller's designee, shall be submitted annually with the copy of the annual audit, or upon request, to the comptroller, or the comptroller's designee.

(e) The board shall submit an annual report to the finance, ways and means committee of the senate and the finance, ways and means committee of the house of representatives that details the function of the pilot program as created pursuant to § 64-10-223 [expired] and its support of small business incubators, including, but not be limited to, the amount of state appropriations received each fiscal year, the participants in the program and the program's effect on small businesses in the region.

65-1-104. Quorum — Chair and vice chair — Panels.

(a) A majority of the commissioners of the Tennessee public utility commission shall constitute a quorum for the transaction of business. The commission shall elect one (1) of its commissioners to be the chair of the commission for a two-year term and shall elect one (1) of its commissioners to be the vice chair of the commission for a two-year term. The vice chair shall assume the role of chair at the expiration of the chair's two-year term.

(b) The chair and vice chair of the commission may be removed by a majority vote of the disinterested commissioners.

(c) The chair shall have the primary responsibility of formulating the broad strategies, goals, objectives, long-range plans and policies of the commission, in conjunction with the commissioners. The chair shall also have the power and duty to conduct ordinary and necessary business in the name of the commission. Such duties include, but are not limited to, the following:

(1) Giving notice of, and agendas for, all meetings of the commission to all commissioners in advance of the meeting;

(2) Assigning matters to be heard by panels in accordance with this section;

(3) Preparing and calling the docket items to be heard during each scheduled meeting of the commission;

(4) Keeping the official, full and correct record of all proceedings and transactions of the commission;

(5) Serving as the designated contact for all media inquiries to the commission;

(6) Ensuring that orders by the commission are issued in a timely manner and in accordance with the rules and procedures established by the executive director;

(7) Conducting a yearly performance evaluation of the executive director, which shall be submitted to the governor;

(8) Delegating duties of the chair to the vice chair; and

(9) Performing such other duties as the commission may assign or as may be required by statute, rule or regulation.

(d) The chair shall assign each matter before the commission to a panel of three (3) voting members, from among the commissioners. The remaining two (2) voting members of the commission, who are not assigned to a particular panel, shall not vote or deliberate regarding such matters. The commission shall establish reasonable procedures for rotating the commissioners for assignments to panels in an efficient manner. Such procedures shall ensure that all voting members of the commission serve on a substantially equal number of panels in a random fashion, to the extent practicable.

65-4-101. Chapter definitions.

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

(1) "Competing telecommunications service provider" means any individual or entity that offers or provides any two-way communications service, telephone service, telegraph service, paging service, or communications service similar to such services and is certificated as a provider of such services after June 6, 1995, unless otherwise exempted from this definition by state or federal law;

(2) "Current authorized fair rate of return" means:

(A) For an incumbent local exchange telephone company operating pursuant to a regulatory reform plan ordered by the former public service commission under TPSC rule 1220-4-2-.55, any return within the range contemplated by TPSC rule 1220-4-2-.55(1)(c)(1) or TPSC rule 1220-4-2-.55(d);

(B) For any other incumbent local exchange telephone company, the rate of return on rate base most recently used by the former public service commission in an order evaluating its rates;

(3) "Gross domestic product-price index (GDP-PI)" used to determine limits on rate changes means the final estimate of the chain-weighted gross domestic product-price index as prepared by the United States department of commerce and published in the Survey of Current Business, or its successor;

(4) "Incumbent local exchange telephone company" means a public utility offering and providing basic local exchange telephone service as defined by § 65-5-108(a) pursuant to tariffs approved by the former public service commission prior to June 6, 1995;

(5) "Interconnection services" means telecommunications services, including intrastate switched access service, that allow a telecommunications service provider to interconnect with the networks of all other telecommunications service providers;

(6)(A) "Public utility" means every individual, copartnership, association, corporation, or joint stock company, its lessees, trustees, or receivers,

appointed by any court whatsoever, that own, operate, manage or control, within the state, any interurban electric railway, traction company, all other common carriers, express, gas, electric light, heat, power, water, telephone, telegraph, telecommunications services, or any other like system, plant or equipment, affected by and dedicated to the public use, under privileges, franchises, licenses, or agreements, granted by the state or by any political subdivision thereof. "Public utility" as defined in this section shall not be construed to include the following nonutilities:

(i) Any corporation owned by or any agency or instrumentality of the United States;

(ii) Any county, municipal corporation or other subdivision of the state of Tennessee;

(iii) Any corporation owned by or any agency or instrumentality of the state;

(iv) Any corporation or joint stock company more than fifty percent (50%) of the voting stock or shares of which is owned by the United States, the state of Tennessee or by any nonutility referred to in subdivisions (a)(1), (2), and (3);

(v) Any cooperative organization not organized or doing business for profit, cooperative association not organized or doing business for profit, or cooperative corporation not organized or doing business for profit. For purposes of this subdivision (6)(A)(v), "cooperative" shall mean only those nonprofit cooperative entities organized under or otherwise subject to the Rural Electric and Community Services Cooperative Act, compiled in chapter 25, part 2 of this title, or the Telephone Cooperative Act, compiled in chapter 29 of this title.

(vi) Any individual, partnership, copartnership, association, corporation or joint stock company offering domestic public cellular radio telephone service authorized by the federal communications commission; provided, that the real and personal property of such domestic public cellular radio telephone entities shall be assessed by the comptroller of the treasury pursuant to §§ 67-5-801(a)(1), 67-5-901(a)(1), and § 67-5-1301(a)(2); provided, however, that until at least two (2) entities, each independent of the other, are authorized by the federal communications commission to offer domestic public cellular radio telephone service in the same cellular geographical area within the state, the customer rates only of a company offering domestic public cellular radio telephone service shall be subject to review by the Tennessee public utility commission pursuant to §§ 65-5-101 — 65-5-104. Upon existence in a cellular geographical area of the conditions set forth in the preceding sentence, domestic public cellular radio telephone service in such area, for all purposes, shall automatically cease to be treated as a public utility under this title. The Tennessee public utility commission's authority over domestic public cellular radio telephone service is expressly limited to the above extent and the commission shall have no authority over resellers of domestic public cellular radio telephone service. For the purpose of this subdivision (6)(A)(vi), "authorized" means six (6) months after granting of the construction permit by the federal communications commission to the second entity or when the second entity begins offering service in the same cellular geographical area, whichever should first occur. This subdivision (6)(A)(vi) does not affect, modify or lessen the utility commission's authority over public utilities that are subject to regulation pursuant to chapter

5 of this title;

(vii) Any county, municipal corporation or other subdivision of a state bordering Tennessee, but only to the extent that such county, municipal corporation or other subdivision distributes natural gas to retail customers within the municipal boundaries and/or urban growth boundaries of a Tennessee city or town adjoining such bordering state;

(viii) Any of the foregoing nonutilities acting jointly or in combination or through a joint agency or instrumentality; and

(ix) For purposes of §§ 65-5-101 and 65-5-103, "public utility" shall not include interexchange carriers. "Interexchange carriers" means companies, other than incumbent local exchange telephone companies, owning facilities in the state which consist of network elements and switches, or other communication transmission equipment used to carry voice, data, image, and video traffic across the local access and transport area (LATA) boundaries within Tennessee;

(B)(i) "Public utility" does not mean nonprofit homeowners associations or organizations whose membership is limited to owners of lots in residential subdivisions, which associations or organizations own, construct, operate or maintain water, street light or park maintenance service systems for the exclusive use of that subdivision; provided, however, that the subdivisions are unable to obtain such services from the local utility district. None of the property, property rights or facilities owned or used by the association or organization for the rendering of such services shall be under the jurisdiction, supervision or control of the Tennessee public utility commission;

(ii) "Public utility" does not mean any nonprofit corporation, as defined in § 501(c)(4) of the Internal Revenue Code (26 U.S.C. § 501(c)(4)), which owns and operates a wastewater system primarily for the use of the members of the corporation and which has received a written statement of exemption from regulation as a public utility from the Tennessee public utility commission prior to January 1, 2009;

(C) "Public utility" includes a wind energy facility, as defined in § 65-17-101, and does not include a wind energy facility subject to § 65-17-102; and

(7) "Telecommunications service provider" means any incumbent local exchange telephone company or certificated individual or entity, or individual or entity operating pursuant to the approval by the former public service commission of a franchise within § 65-4-207(b), authorized by law to provide, and offering or providing for hire, any telecommunications service, telephone service, telegraph service, paging service, or communications service similar to such services unless otherwise exempted from this definition by state or federal law.

65-4-201. Certificate required — Bond or other security required for projects proposed by public utilities providing wastewater service.

(a) No public utility shall establish or begin the construction of, or operate any line, plant, or system, or route in or into a municipality or other territory already receiving a like service from another public utility, or establish service therein, without first having obtained from the commission, after written application and hearing, a certificate that the present or future public

convenience and necessity require or will require such construction, establishment, and operation, and no person or corporation not at the time a public utility shall commence the construction of any plant, line, system, or route to be operated as a public utility, or the operation of which would constitute the same, or the owner or operator thereof, a public utility as defined by law, without having first obtained, in like manner, a similar certificate; provided, however, that this section shall not be construed to require any public utility to obtain a certificate for an extension in or about a municipality or territory where it shall theretofore have lawfully commenced operations, or for an extension into territory, whether within or without a municipality, contiguous to its route, plant, line, or system, and not theretofore receiving service of a like character from another public utility, or for substitute or additional facilities in or to territory already served by it.

(b) Except as exempted by state or federal law, no individual or entity shall offer or provide any individual or group of telecommunications services, or extend its territorial areas of operations without first obtaining from the Tennessee public utility commission a certificate of convenience and necessity for such service or territory; provided, however, that no telecommunications services provider offering and providing a telecommunications service under the authority of the commission on June 6, 1995, is required to obtain additional authority in order to continue to offer and provide such telecommunications services as it offers and provides as of June 6, 1995.

(c)(1) After notice to the incumbent local exchange telephone company and other interested parties and following a hearing, the commission shall grant a certificate of convenience and necessity to a competing telecommunications service provider if after examining the evidence presented, the commission finds:

(A) The applicant has demonstrated that it will adhere to all applicable commission policies, rules and orders; and

(B) The applicant possesses sufficient managerial, financial and technical abilities to provide the applied for services.

(2) An commission order, including appropriate findings of fact and conclusions of law, denying or approving, with or without modification, an application for certification of a competing telecommunications service provider shall be entered no more than sixty (60) days from the filing of the application.

(d) Subsection (c) is not applicable to areas served by an incumbent local exchange telephone company with fewer than 100,000 total access lines in this state unless such company voluntarily enters into an interconnection agreement with a competing telecommunications service provider or unless such incumbent local exchange telephone company applies for a certificate to provide telecommunications services in an area outside its service area existing on June 6, 1995.

(e) The commission shall direct the posting of a bond or other security by a public utility providing wastewater service or for a particular project proposed by a public utility providing wastewater service. The purpose of the bond or other security shall be to ensure the proper operation and maintenance of the public utility or project. The commission shall establish by rule the form of such bond or other security, the circumstances under which a bond or other security may be required, and the manner and circumstances under which the bond or other security may be forfeited.

(1) The requirement under this subsection (e) to post a bond or other security by a public utility providing wastewater service shall also satisfy the requirement on such a public utility to provide a bond or other financial security to the department of environment and conservation as required by § 69-3-122.

(2) The commission shall establish by rule the amount of such bond or other security for various sizes and types of facilities.

(3) Notwithstanding any other law, posting a bond or other security under this subsection (e) or § 69-3-122, shall not be required until January 1, 2006, or until the commission's rules become effective, whichever occurs first. Such rules may be promulgated as emergency rules.

(f) The commission shall not issue a certificate of public convenience and necessity for a wind energy facility that includes any wind turbine with a total height in excess of three hundred fifty feet (350′) as measured from the ground at its base to the maximum height of the blade tip located on a mountain ridge at an elevation above two thousand five hundred feet (2,500′) mean sea level or five hundred feet (500′) or more above mean sea level of the adjacent valley floor. This subsection (f) shall not apply to single wind turbines less than one hundred feet (100′) in height as measured from the ground at its base to the maximum height of the blade tip and used to generate electricity that is consumed on the same site where the wind turbine is located.

65-17-101. Chapter definitions.

As used in this chapter:

(1) "Construct" or "construction":

(A) Means the process of bringing a wind energy facility to completion; and

(B) Includes the following:

(i) Planning;

(ii) Research, but does not include wind and environmental analysis;

(iii) Feasibility analysis, but does not include wind and environmental analysis;

(iv) Environmental evaluation, but does not include wind and environmental analysis;

(v) Preliminary engineering;

(vi) Designing;

(vii) Relocation of utilities;

(viii) Permitting;

(ix) Environmental mitigation;

(x) Contracting; and

(xi) Financing;

(2) "Department" means the department of environment and conservation;

(3) "Local government" means any county, municipality, city, or other political subdivision of this state;

(4) "Local legislation" means any ordinance, resolution, motion, amendment, regulation, or rule adopted by a local government;

(5) "Local legislative body" means the governing body of a local government;

(6) "Non-participating landowner" means a landowner not under a lease or other property agreement with the owner or operator of a wind turbine

facility;

(7) "Operate" or "operation":

(A) Means any activity associated with the management, operation, and maintenance of a completed wind energy facility; and

(B) Includes the installation or improvement of the wind energy facility;

(8) "Person" means any natural person, corporation, limited liability company, partnership, joint venture, or other private business entity except for corporations transacting business in this state pursuant to chapter 25 of this title;

(9) "Proprietary" in regard to information means commercial or financial information that is used either directly or indirectly in the business of any applicant submitting information to a local government under this chapter, and that gives the applicant an advantage or an opportunity to obtain an advantage over competitors who do not know or use the information, which information includes trade secrets;

(10) "Redevelop" or "redevelopment" means the process of replanning, reconstructing, or redesigning a wind energy facility, including the acquisition, clearance, development, or disposal, or any combination of these activities, of a wind energy facility;

(11) "Transmission facility" means a power cable, distribution line, or other equipment that delivers electricity from a wind turbine located in this state to the point of interconnection with a power distribution grid, long-distance power transmission grid, or other facility by and through which the electricity is distributed or transmitted to one (1) or more customers; provided, that nothing in this chapter shall apply to any distribution, transmission, or other facilities that are located beyond the point of interconnection with the power distribution grid or transmission grid;

(12) "Wind energy facility":

(A) Means the equipment necessary for the operation of a facility that uses wind to generate electricity or that uses wind energy to heat or cool, or provide hot water for use in, a building or structure, including parts solely related to the functioning of that equipment, that cumulatively, with any other wind energy facility, has a rated capacity of one megawatt (1 MW) or more of energy and has a total height in excess of two hundred feet (200′);

(B) Includes turbines, towers, buildings, transmission facilities, and other associated facilities; and

(C) Does not include equipment that, when installed in connection with a dwelling, transmits or uses wind energy to produce energy in a useful form for residential purposes; and

(13) "Wind energy facility expansion" means any activity that:

(A) Adds or substantially modifies a wind energy facility, including increasing the height or the number of the turbines, transmission facilities, or other equipment; or

(B) Increases the footprint of the wind energy facility.

65-17-102. Applicability.

(a) This chapter shall not apply in any local government that has adopted regulations related to the siting of wind energy facilities in its jurisdiction on

or before January 1, 2019.

(b) This chapter shall not apply to any wind energy facility located in this state that was constructed prior to April 24, 2018.

65-17-103. [Repealed.]

65-17-104. Permit required.

No person shall undertake the construction, operation, or redevelopment of a wind energy facility or a wind energy facility expansion in this state unless a certificate of public convenience and necessity is first obtained from the public utility commission pursuant to chapter 4, part 2 of this title, and a permit is obtained from the local legislative body of the local government in which the facility or expansion will be located pursuant to §§ 65-17-105 — 65-17-113. The person shall submit a copy of the certificate of public convenience and necessity with its application for a permit to the local legislative body.

65-17-105. Local government regulation.

(a) A local government may adopt, by action of its local legislative body, local legislation that regulates and establishes the conditions and criteria for the construction, operation, or redevelopment of wind energy facilities and for wind energy facility expansions within the jurisdiction of the local government. No such local legislation shall take effect unless it is adopted by a two-thirds (⅔) vote of the local legislative body; except, that if an industrial development board for the local government proposes such local legislation or considers a request for a permit or permit procedures prior to any local legislation being considered by the local legislative body, then the local legislation shall only be subject to a majority vote of the local legislative body. The local legislation adopted pursuant to this subsection (a) shall establish the minimum setback as provided in subdivision (e)(2)(A) for the wind energy facility or wind energy facility expansion; and shall require that environmental impact and wildlife impact assessments be conducted, if applicable, as provided in subdivisions (e)(2)(B) and (C), respectively, that the facility comply with maximum noise levels as provided in subdivision (e)(2)(D), that an applicant submit financial security as provided in subdivision (e)(2)(E), and that a permit holder decommission or remove a wind energy facility upon the occurrence of certain events as provided in subdivisions (e)(2)(F) and (G).

(b) Any local legislation adopted by a municipal legislative body pursuant to subsection (a) shall apply only in the corporate limits of the municipality. A municipal legislative body shall not be authorized to adopt such local legislation unless the county legislative body of the county in which the municipality is located has previously adopted such local legislation within the county.

(c) A local government that regulates the construction, operation, or redevelopment of wind energy facilities and wind energy facility expansions adopted by a local legislative body pursuant to subsection (a) shall furnish a certified copy of the adopted local legislation to the department.

(d)(1) The local legislation adopted pursuant to subsection (a) may provide for the issuance of permits for the construction, operation, or redevelopment of wind energy facilities and wind energy facility expansions within the jurisdiction of the local government. The local legislation shall specify procedures governing the application for and issuance, renewal, modifica-

tion, suspension, revocation, or denial of the permits.

(2) A local legislative body may deny the issuance or renewal of a permit, or revoke, suspend, or modify any existing permit for cause, including the violation of any conditions of the permit or of local legislation adopted pursuant to this chapter, obtaining the permit by misrepresentation, or failing to fully disclose all relevant facts. The local legislation or permit conditions shall include a six-month cure period during which time the local legislative body may establish financial penalties for noncompliance.

(3)(A) The local legislative body shall review the permit application for compliance with the local legislation adopted pursuant to this chapter, and shall conduct a public hearing after public notice has been given in accordance with subdivision (d)(3)(B) prior to making a determination on the permit application. The local legislative body shall conduct the public hearing within sixty (60) days after receiving a complete permit application.

(B) Public notice of the permit application and the time and location of the public hearing shall be published for at least two (2) consecutive weeks in a newspaper of general circulation in the local government in which the construction, operation, or redevelopment of the wind energy facility or wind energy facility expansion is to be located. The notice shall be published beginning at least thirty (30) days prior to the scheduled date of the hearing.

(C) The notice shall provide that any comments on the construction, operation, or redevelopment of the wind energy facility, or wind energy facility expansion, must be submitted to the local legislative body by a specified date, not less than thirty (30) days from the date of the newspaper publication of the notice.

(4) The local legislative body may appoint itself as the agency to process permit applications or conduct the public hearing, or may create or designate another agency to take such action.

(5) The local legislative body may provide, by local legislation, that a reasonable fee be charged to cover the costs of:

(A) Processing and reviewing permit applications;

(B) Conducting public hearings; and

(C) The performance of the local legislative body's duties under this chapter.

(e)(1) The local legislative body may adopt local legislation with any condition, criteria, or other provision it deems necessary for establishing regulations or granting a permit for the construction, operation, or redevelopment of a wind energy facility or wind energy facility expansion under this chapter. The local legislative body may issue a permit for a general boundary, and the wind energy facility may elect to move the planned locations of a wind turbine or other wind energy facility component after permit approval; provided, that the locations shall not be moved outside of the permitted boundary and shall comply with all other requirements pursuant to this chapter. The local legislative body may also institute wind energy facility design conditions for granting a permit in order to comply with any conditional approval from the wildlife resources agency and to mitigate potential impacts, as identified by the local legislative body or local agency.

(2) Any local legislation adopted pursuant to this chapter shall require

that:

(A) The minimum setback for any wind turbine of a wind energy facility from any non-participating landowner's property line be equal to three and one-half (3.5) times the total height of the turbine structure as measured from the ground at its base to the maximum height of the blade tip; except, that a non-participating landowner may elect to sign a waiver to allow any wind turbine or group of turbines of a wind energy facility to be placed up to one and one-tenth (1.1) times the total height of the turbine structure as measured from the ground at its base to the maximum height of the blade tip from the landowner's property line;

(B) An environmental impact assessment be conducted by qualified, third party experts, paid for by the applicant, of the potential adverse impacts within a maximum of four (4) miles of the perimeter of the facility or expansion; except, that no such assessment shall be conducted if an environmental review of the wind energy facility or any portion of the facility is required pursuant to the National Environmental Policy Act (42 U.S.C. §§ 4321, et seq.), which includes public input, a public hearing, an environmental impact statement, and a viewshed analysis. Any environmental impact assessment conducted pursuant to this subdivision (e)(2)(B) shall include, but not be limited to, a study of the following:

(i) Economic impacts to individuals, property values, tourism, and agriculture;

(ii) Potential adverse impacts on ecosystems, including domestic animals, and habitat and migratory patterns for wildlife;

(iii) Viewshed analysis for national or state parks or forests, historic or cultural sites, public parks or recreation areas, or private conservation lands;

(iv) Hydrogeological assessment, including water bodies, flowing water sources, stormwater runoff, wetlands, groundwater, aquifers, and private wells within a minimum of two (2) miles of the perimeter of the facility or expansion;

(v) Risk assessment and mitigation recommendations for shadow flicker and incidents, such as wind turbine fires, structural damage or failure, ice and blade throw, and hazardous material spills; and

(vi) Risk assessment for civil air navigation, military or law enforcement routes or training exercises, emergency medical flights, radar operations, and cell phone services;

(C) A wildlife impact assessment be conducted through a comprehensive social, economic, and environmental study; except, that no such assessment shall be conducted if an environmental review of the wind energy facility or any portion of the facility is required pursuant to the National Environmental Policy Act (42 U.S.C. §§ 4321, et seq.), which includes public input, a public hearing, an environmental impact statement, and a viewshed analysis. Such local legislation shall also include as a condition of a permit a requirement that the wildlife resources agency review any such wildlife impact assessment and approve, grant conditional approval of, or deny the permit. Any such wildlife impact assessment shall include, but not be limited to, a study of the potential adverse impacts to wildlife refuges, preserves and management areas, areas that provide habitat for threatened or endangered species, primary nursery areas designated by the fish and wildlife commission and the wildlife

resources agency, and critical fisheries habitats identified pursuant to applicable state or federal law. No permit shall become effective until the local government has received notification of approval or conditional approval within one hundred twenty (120) days of the permit from the wildlife resources agency;

(D)(i) Except during the event of inclement weather that prevents the operator of a wind energy facility from controlling the noise level of one (1) or more wind turbines that are part of the wind energy facility, any wind turbine or group of wind turbines of a wind energy facility does not exceed an immission limit at a non-participating landowner's dwelling of thirty-five A-weighted decibels (35 dBA) and forty-five A-weighted decibels (45 dBA) at a non-participating landowner's property line as determined by a qualified, third-party acoustics expert according to American National Standard Institute (ANSI) Standard 12.9 and other applicable ANSI standards; and

(ii) Prior to construction of a facility or expansion, a qualified, third-party acoustics expert, selected and paid for by the applicant, makes a baseline determination of preconstruction noise levels, including modeling and enforcement;

(E)(i) Prior to the start of construction of a wind energy facility, the applicant for a permit for the construction, operation, or expansion of the wind energy facility, or wind energy facility expansion, establish financial security in the amount of one hundred percent (100%) of the estimate of the total cost to decommission and remove the wind energy facility, as determined by an independent consultant selected and paid for by the applicant; and

(ii) To establish financial security pursuant to subdivision (e)(2)(E)(i), the applicant file with the local legislative body a surety bond, collateral bond, irrevocable letter of credit, parent guaranty, cash, cashier's check, certificate of deposit, bank joint custody receipt, or other approved negotiated instrument, or any combination of the foregoing, in the amount required by subdivision (e)(2)(E)(i). The local legislative body shall take custody and hold the bond or other form of financial security;

(F) The facility is decommissioned or removed if:

(i) Any wind turbine of a wind energy facility ceases to generate electricity for one hundred eighty (180) continuous days, unless the termination of electricity was mandated by state or federal law; provided, that one (1) or more extensions may be allowed for one-hundred-eighty-day periods at a time; or

(ii) Any wind turbine or group of wind turbines of a wind energy facility violates the noise level restrictions provided in subdivision (e)(2)(D), unless the turbine or group of turbines is brought into compliance within one hundred eighty (180) days of the violation; provided, that a single one-hundred-eighty-day extension may be allowed; and

(G) Within twelve (12) months following the decommissioning of a facility or expansion, the property is restored to its original condition prior to commencement of activities on the site.

65-17-106. Local government report on permitting activities.

On or before January 1, 2019, and on or before January 1 of each subsequent

year, any local government that has adopted local legislation pursuant to this chapter shall submit a written report on its permitting activities to the agriculture and natural resources committee of the house of representatives and the energy, agriculture and natural resources committee of the senate. The report shall include, but not be limited to, data on the number of approved and denied permits, data summarizing the findings of the environmental impact assessment and wildlife impact assessments conducted during the permit process, data on the activities of any wind energy facilities currently in operation, and data on any decommissioned facilities.

65-17-107. Permit does not preclude need to obtain other applicable local, state, and federal permits, licenses, or approvals.

The issuance of a permit under this chapter shall not preclude the need for the applicant to obtain any and all other applicable local, state, or federal permits, licenses, or approvals. Nothing in this chapter shall limit the ability of a local government to plan for and regulate the siting or permitting of a wind energy facility or wind energy facility expansion in accordance with applicable land-use regulations authorized under titles 5 and 6 or the applicable requirements of this title.

65-17-108. Information subject to disclosure.

All permit applications and other documents received by a local legislative body pursuant to this chapter, and any documents used by the local legislative body to evaluate the permit application, shall be subject to disclosure under § 10-7-503; except, that at all times under this chapter, proprietary information contained in a permit application or in other documents received by the local government pursuant to this chapter, or in any other documents used by the local government to evaluate and approve or deny the permit applications, shall remain confidential and not subject to disclosure to the public pursuant to this section, § 10-7-503, or any other law.

65-17-109. Local government right to injunctive relief.

(a) The local legislative body may seek injunctive relief or institute other appropriate actions or proceedings in the chancery court of:

(1) The local government in which any violation of § 65-17-104 or of the local legislation occurred; or

(2) The local government in which the person responsible for the violation resides or has the person's principal place of business to ensure compliance with this chapter.

(b) The chancery court may grant a temporary or permanent injunction restraining the violation of § 65-17-104 or of the local legislation. The institution of an injunctive action and of the proceedings under this section is in addition to, and not in lieu of, all civil penalties and other remedies prescribed in titles 5 and 6 for permit violations and violations of local legislation.

65-17-110. Dissemination of model local legislation.

The municipal technical advisory service (MTAS) and the county technical assistance service (CTAS) shall disseminate model local legislation for use by

local governments in establishing conditions and other regulations consistent with this chapter for the issuance of permits for wind energy facilities and wind energy facility expansions.

65-17-111. Chapter supplemental to other law.

This chapter supplements any other provision of this title or other law to provide additional authority to regulate the siting and permitting of wind energy facilities and wind energy facility expansions. Nothing in this chapter prescribes an exclusive procedure or grants exclusive powers relating to the siting or permitting of wind energy facilities and wind energy facility expansions.

65-17-112. Chapter applicability.

This chapter shall apply in the geographical boundaries of local governments whose local legislative bodies adopt local legislation pursuant to § 65-17-105. Once adopted, local legislation may only be revoked by the same method used to adopt it.

65-17-113. Federal preculsion.

In the event that the requirements of this chapter conflict with applicable federal law or regulations, the federal requirements shall take precedence over the conflicting requirements of this chapter.

65-25-105. Powers of cooperative.

(a) Not inconsistent with or in lieu of, but in addition to, the powers set forth in title 48, chapter 53, a cooperative has the power to:

(1) Have a corporate seal and alter the same at will; provided, that it need not have, nor shall it for any purpose be necessary for it to use, such a seal;

(2) Become a member in or stockholder of one (1) or more other nonprofit cooperatives, corporations or other legal entities and to own the same, wholly or in part;

(3) Solely on its own, or jointly, as tenant in common or as a partner with one (1) or more other entities, construct, purchase, take, receive, lease as lessee or lessor, or otherwise acquire, and own, hold, use, equip, maintain, and operate and sell, assign, transfer, convey, exchange, lease back, mortgage, pledge, or otherwise dispose of or encumber any and all property, of whatever kind or nature and of whatever estate, real and personal, tangible and intangible, including choses in action;

(4) Purchase or otherwise acquire, and own, lease as lessor or lessee, lease back, hold, use, and exercise, and sell, assign, transfer, convey, mortgage, pledge, hypothecate, or otherwise dispose of or encumber, franchises, rights, privileges, licenses, rights-of-way, and easements;

(5) Secure any of its liabilities or obligations by mortgage, pledge, deed of trust, or any other encumbrance upon any or all of its then-owned or after-acquired real or personal property, assets, franchises, revenues, or income;

(6) Make any and all contracts necessary or convenient for the full exercise of the powers in this chapter granted, including, but not limited to, contracts with any person, federal agency, or municipality, for the purchase

or sale of electric power and energy and, in connection with any such electric power and energy contract, stipulate and agree to such covenants, terms, and conditions as the board may deem appropriate, including covenants, terms, and conditions with respect to resale rates, financial and accounting methods, services, operation and maintenance practices, and, consistent with § 65-25-112, the manner of disposing of the revenues of the properties operated and maintained by the cooperative;

(7) Conduct its business and exercise any or all of its powers within or without this state;

(8) Adopt, amend, and repeal bylaws;

(9) Organize and promote and otherwise foster and participate in, through membership or ownership, including stock ownership, community, regional, or statewide or national organizations whose purposes are or include the promotion and assistance of economic, industrial or commercial development which the board of the cooperative determines will, or likely will, result in economic benefits to the cooperative or its members;

(10) Do and perform any and all other acts and things and have and exercise any and all other powers which may be necessary, convenient, or appropriate to accomplish the cooperative's purpose or purposes;

(11) With respect to a primary purpose and the secondary purpose of supplying telecommunications and broadband internet access and related services, but without limiting the generality or particularity of subdivisions (a)(1)-(10), construct, maintain, and operate, and allow others, so long as such others are permitted by law to operate such systems within the cooperative's service area, to operate, electric, or other telecommunications or broadband internet access and related services transmission and distribution lines or other conducting or communications facilities along, upon, under, and across all of the following:

(A) Real property, personal property, rights of way and easements owned, held, or otherwise used by the cooperative. Any easement owned, held, or otherwise used by the cooperative in pursuit of a primary purpose may be used for any secondary purpose; and

(B) Public thoroughfares, including, but not limited to, all roads, highways, streets, alleys, bridges, and causeways and publicly owned lands if the applicable authorities having jurisdiction over the public thoroughfares and lands consent, but consent shall not be unreasonably withheld or conditioned for the purpose of enabling the authority to gain competitive advantage with respect to the rendition by the authority or any other entity of a service that the cooperative also has a right to render; and

(12) With respect to a primary purpose, but without limiting the generality or particularity of subdivisions (a)(1)-(11):

(A) Generate, manufacture, purchase, acquire, and transmit, and transform, supply, distribute, furnish, deliver, sell, and dispose of, electric power and energy;

(B) Make loans to persons to whom electric power or energy is or will be supplied by the cooperative for the purpose of, and otherwise to assist such persons in, wiring their premises and installing therein electric and plumbing fixtures, appliances, apparatus, and equipment of any and all kinds and character, and, in connection therewith, purchase, acquire, lease, sell, distribute, install, and repair such electric and plumbing

fixtures, appliances, apparatus, and equipment, and accept, or otherwise acquire, and sell, assign, transfer, endorse, pledge, hypothecate and otherwise dispose of, notes, bonds and other evidences of indebtedness and any and all types of security therefor; and

(C) Condemn either the fee or such other right, title, interest or easement in and to property as the board may deem necessary, and such property or interest in such property may be so acquired, whether or not the same is owned or held for public use by corporations, associations, cooperatives or persons having the power of eminent domain, or otherwise held or used for public purposes, and such power of condemnation may be exercised in the mode of procedure prescribed by title 29, chapter 16, or in the mode or method of procedure prescribed by any other applicable statutory provisions now in force or hereafter enacted for the exercise of the power of eminent domain; provided, that no property which is owned or held for public use, nor any interest therein, shall be condemned if, in the judgment of the court the condemnation of such property or interest therein will obstruct, prevent, burden, interfere with, or unduly inconvenience the continued use of such property for the public use to which it is devoted at the time the same is sought to be condemned; provided further, that where title to any property sought to be condemned is defective, it shall be passed by decree of court; provided further, that where condemnation proceedings become necessary, the court in which such proceedings are filed shall, upon application by the cooperative and upon the posting of a bond with the clerk of the court in such amount as the court may deem commensurate with the value of the property, order that the right of possession shall issue immediately or as soon and upon such terms as the court, in its discretion, may deem proper and just; but provided further, that in cases where condemnation of property already devoted to a public use is sought, no order as to right of possession shall issue until it is finally determined that the condemnor is entitled to condemn such property. The power of eminent domain provided by this subdivision (a)(12)(C) shall be supplemental to, not in lieu of or in conflict with, § 48-51-103 of the Tennessee Nonprofit Corporation Act.

(b) All of the powers conferred by this section are to be exercised by a cooperative for rendering one (1) or more services to persons who or which are its members and to other persons, not to exceed fifteen percent (15%) of the number of persons who or which are its members; provided, that whenever in the sole judgment of its board such is necessary to acquire or to protect and preserve a cooperative's exemption from federal income taxation relative to a primary or secondary purpose, a cooperative may require new nonmember patron applicants or existing nonmember patrons to become members as a condition of initially receiving or of continuing to receive such service.

(c) [Deleted by 2017 amendment.]

(d)(1) In addition to all other powers set forth in this chapter, a cooperative shall have the power and authority to make contributions for bona fide charitable purposes and to accept voluntary contributions pursuant to programs approved by the board of directors, which programs may include, but shall not be limited to, programs in which bills for electric power are rounded up to the next dollar when such contribution is shown as a separate line on the electric bill.

(2) Contributions accepted by a cooperative pursuant to programs authorized by subdivision (d)(1) shall not be considered revenue to the cooperative

and shall be used only for charitable purposes.

(3) This subsection (d) prohibits discrimination by a cooperative in the distribution of voluntary contributions for bona fide charitable purposes to organizations whose mission is to assist persons regardless of their race, color, creed, religion, national origin, gender, disability or age.

65-31-102. Chapter definitions.

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

(1) "Agricultural purposes," for purposes of this chapter only, includes surface activities, such as plowing, planting, and combining, but does not include blasting, setting drainage tiles, subsoiling, or other subsurface activities;

(2) "Blasting" means the use of an explosive device for the excavation of earth, rock, or other material or the demolition of a structure;

(3) "Board" means the underground utility damage enforcement board, created by § 65-31-114;

(4) "Calendar day" means a twenty-four (24) hour period beginning with the date and time that a notification to excavate or demolish is to begin, including Monday through Sunday and all holidays;

(5) "Contract locator" means any person contracted with an operator, or operating on behalf of an operator, specifically to determine and mark the approximate location of the operator's utility lines that exist within the area specified by a notice served on the one-call service;

(6) "Damage" includes the substantial weakening of structural or lateral support of an underground utility, penetration or destruction of any protective coating, housing or other protective device of an underground utility, the partial or complete severance of an underground utility and rendering any underground utility inaccessible;

(7) "Demolish" or "demolition" means any operation by which a structure or mass of material is wrecked, razed, rendered, moved or removed by means of any tools, equipment, or discharge of explosives;

(8) "Design locate request" means a communication to the one-call service in which a request for locating existing utility facilities for predesign or advance planning purposes is made;

(9) "Excavate" or "excavation":

(A) Means an operation for the purpose of the movement, placement, or removal of earth, rock, or other materials in or on the ground by use of mechanized equipment or by discharge of explosives, and includes augering, backfilling, blasting, boring, digging, ditching, drilling, grading, pile-driving, plowing-in, pulling-in, ripping, scraping, sub-soiling, trenching, and tunneling; and

(B) Does not include:

(i) Pavement milling or pavement repair that does not exceed the depth of the existing base stone and pavement;

(ii) Routine railroad maintenance activities, including removal and replacement of base material up to twenty-four inches (24″) below the flow line of the ditch or ground surface of the railroad right-of-way adjacent to the existing track structure if the work is conducted by railroad employees or railroad contractors and is carried out with reasonable care so as to protect any installed underground facilities

placed in the railroad right-of-way by agreement with the railroad;

(iii) Routine road maintenance activities; and

(iv) The tilling of soil for agricultural purposes or the digging of holes for fence posts on private property in any area that is not located within a recorded easement of an operator or that is not located within one hundred feet (100′) of the edge of the pavement of a street or highway;

(10) "Excavator" means any person who engages in activities described in subdivisions (A) and (B) in the definition of "excavate" contained in this section;

(11) "Executive committee" means the executive committee created by § 65-31-114(f);

(12) "Impending emergency" means circumstances potentially dangerous to life, health, property, the environment or the repair or restoration of service, which would likely develop into an emergency, as defined in § 65-31-109, if excavation is not initiated within seventy-two (72) hours;

(13) "Location" means the proposed area for which digging or excavating is scheduled within three (3) to ten (10) working days, such area not to exceed two thousand feet (2,000′) in length unless an excavator and an operator or an operator's designated representative, such as a one-call service, agree to a larger area;

(14) "Mechanized equipment" means equipment operated by means of mechanical power including trenchers, bulldozers, power shovels, augers, backhoes, scrapers, drills, cable and pipe plows and other equipment used for plowing-in or pulling-in cable or pipe;

(15) "One-Call Service" means a telephone notification service described in § 65-31-107 that provides services to its members for the purposes of receiving and distributing notification regarding planned excavations or demolitions that are required under this chapter;

(16) "Operator" means any person who owns or operates a utility;

(17) "Person" means any individual; any corporation, partnership, association, or any other entity organized under the laws of any state; any state; any subdivision or instrumentality of a state; and any employee, agent, or legal representative thereof;

(18) "Proposed area of excavation" means a general surface location which excavators are to furnish to operators of underground utilities or to a one-call service as defined in § 65-31-106. The proposed area of excavation does not constitute a specified depth for the purpose of complying with this chapter;

(19) "Routine road maintenance activities":

(A) Means activities carried out by or for those responsible for publicly-maintained roadways if the activities:

(i) Occur entirely within the right-of-way of a public road, street, or highway;

(ii) Are carried out with reasonable care so as to protect any utility-owned facilities and laterals placed in the right-of-way;

(iii) Are carried out within the limits of any original excavation on the traveled way, shoulders, or drainage ditches of a public road, street, or highway, and do not exceed eighteen inches (18″) in depth below the flow line of the ditch or the grade existing prior to the activities; and

(iv) If involving the replacement of existing structures at a depth greater than eighteen inches (18″), replace those existing structures in

their previous locations and at their previous depths; and

(B) Does not include work on a roadway done pursuant to a contract awarded by a state or local government through a bid process for which plan drawings have been developed in advance;

(20) "Utility":

(A) Means any line, system, or facility used for producing, storing, conveying, transmitting, or distributing communications, electricity, gas, petroleum, petroleum products, hazardous liquids, water, steam, sewerage, and other underground facilities; and

(B) Does not include any railroad, the Tennessee department of transportation, or any natural flowing runoff systems;

(21) "Willful noncompliance" means the intentional refusal or failure to perform, or comply with, a duty created or imposed by this chapter or by rules promulgated pursuant to this chapter; and

(22) "Working day" means every day, except Saturday, Sunday, and national and legal state holidays. For purposes of measuring any period of time that requires notice under this chapter, a working day shall commence at the time the written notice or telephone call is received and shall expire at the same time on the next working day.

65-31-107. Operator associations for mutual receipt of notifications.

(a) Subject to the requirements of subsection (b), operators may form and operate a one-call service providing for mutual receipt of notifications of excavation or demolition operations, pursuant to § 65-31-106, in a defined geographical area. Any operator that suffers damage as a result of not participating in a one-call service providing for receipt of the notification of excavation or demolition operations in a defined geographic area, pursuant to § 65-31-106, waives the right to recover damages to the operator's underground utilities from the excavator; provided, that the provisions of this chapter were met by the excavator.

(b)(1) All operators are required to join the one-call service and utilize the services of the notification center as follows:

(A) Operators that are members of the existing one-call service on May 20, 2015, shall remain members;

(B) Operators with more than fifty thousand (50,000) customers served underground or one thousand (1,000) miles of facilities underground, who are not members, shall join the one-call service no later than January 1, 2016;

(C) Operators with more than twenty-five thousand (25,000) customers served underground or five hundred (500) miles of facilities underground, who are not members, shall join the one-call service no later than January 1, 2017;

(D) All operators that do not meet the thresholds described in subdivision (b)(1)(A), (b)(1)(B), or (b)(1)(C) shall join the one-call service no later than January 1, 2018; and

(E) Failure of an operator as described in this subdivision (b)(1) to join the one-call service and utilize the services of the notification center in accordance with this section is a violation of this chapter and subjects the operator to the fines and penalties described in § 65-31-112.

(2) This subsection (b) shall not apply to operators whose total amount of underground facilities constitutes less than twenty percent (20%) of their

total utility plant in service.

(c) There shall be only one (1) one-call service for this state.

(d) The one-call service shall provide for a proportional method of apportioning the cost of operating the notification center among its members.

(e) The one-call service shall provide training for those who have violated this chapter, unless otherwise determined by the board.

65-31-108. Response to notice of intent to excavate or demolish.

(a)(1)(A) Each operator notified in accordance with § 65-31-106 shall stake or otherwise mark, prior to the noticed time of the proposed excavation or demolition, the surface of the tract or parcel of land affected by the excavation or demolition to indicate the approximate location of all its underground utilities that may be damaged as a result of the excavation or demolition. The operator shall not be required to indicate the depth of any such utility, but only the approximate ground location under which the utility is located. Such staking or other marking shall utilize the following color code:

(i) SAFETY RED shall be used to mark electric power distribution and transmission facilities;

(ii) HIGH VISIBILITY SAFETY YELLOW shall be used to mark gas and oil distribution and transmission facilities;

(iii) SAFETY ALERT ORANGE shall be used to mark telephone, telegraph, cable television, video, and other telecommunications facilities;

(iv) SAFETY PRECAUTION BLUE shall be used to mark water systems facilities;

(v) SAFETY GREEN shall be used to mark sewer systems facilities; and

(vi) SAFETY PURPLE shall be used to mark reclaimed water.

(B) In the event more than one (1) operator uses the same color code under subdivision (a)(1)(A), each operator using the same color shall include a distinctive marking, such as the initials of the operator's name or other marking, that appropriately identifies each operator and sufficiently distinguishes each operator's marking from any other operator authorized to use the same color under subdivision (a)(1)(A).

(2) Notwithstanding subdivision (a)(1), the underground utility damage enforcement board may establish, by rule, best practices for uniform color code and marking consistent with this part. The rules may include stakes, flags, non-permanent paint, or other low impact marking practices. Rules must be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(3) Notwithstanding any law to the contrary, marking methods established by subdivisions (a)(1) and (2) shall be the methods of marking underground facilities in this state.

(b) Each operator participating in a one-call service that has been notified in accordance with § 65-31-106 shall notify the one-call service that the operator has marked the approximate location of all of its underground utilities as required by this section or that the operator has no underground utilities in the proposed area of excavation. The operator shall provide this notice to the one-call service in accordance with procedures adopted by the one-call service

for this notification. This notice shall fulfill the operator's obligation set forth in subsection (e). When each operator notified in accordance with § 65-31-106 has notified the one-call service that its underground utilities in the proposed area of excavation have been marked or that the operator has no underground utilities in the proposed area of excavation, the person responsible for the excavation or demolition may immediately proceed with the excavation or demolition, notwithstanding the minimum three-working-day notice requirement before excavation or demolition can begin set forth in § 65-31-106(a).

(c) An excavator shall exercise reasonable care to avoid damage caused by an excavation or demolition within the safety zone around the marked location of the underground utilities. For the purpose of this section, "safety zone" means a strip of land at least four feet (4′) wide, but not wider than the width of the utility plus two feet (2′) on either side of the utility.

(d) If, upon arrival at the site of a proposed excavation, the excavator observes clear evidence of the presence of an unmarked utility in the area of the proposed excavation, the excavator shall not begin excavating until an additional notice is made to the one-call. The excavator may then proceed, exercising reasonable care to avoid damage to the utility which may be caused by such excavation or demolition.

(e) If no facilities exist in the tract or parcel of land, the operators shall make a reasonable effort to so advise the individual who initiated the request, provided the request is received in accordance with § 65-31-106.

(f) The approximate location of underground utilities does not include a designation of location as to depth below the surface of the ground. Excavators must use reasonable care to ascertain for themselves the exact depth of the underground utilities below the surface of the ground. If, after so ascertaining, the excavator learns that its excavation or demolition is likely to interfere with the operation of the underground utility facilities, it must again notify the affected operator of such underground utility facilities and reasonably cooperate with the operator of the underground utility facilities to conduct its excavation or demolition in such a way that the operations of the underground utility facilities are not disturbed or the affected underground utility facilities are placed out of the way of the proposed excavation or demolition.

(g) Each operator notified in accordance with § 65-31-109, shall within two (2) hours stake or otherwise mark, utilizing the color code set forth in subsection (a), the surface of the tract or parcel of land affected by the excavation or demolition to indicate the approximate location of all its underground utilities that may be damaged as a result of the excavation or demolition.

(h) Each operator notified of an impending emergency, as defined in § 65-31-102, shall stake or otherwise mark, prior to the noticed time of the proposed excavation or demolition, utilizing the color code set forth in subsection (a), the surface of the tract or parcel of land affected by the excavation or demolition to indicate the approximate location of all its underground utilities that may be damaged as a result of the excavation or demolition.

(i) Any contract locator acting on behalf of an operator is subject to this section.

65-31-114. Underground utility damage enforcement board — Executive committee.

(a) There is created within the Tennessee public utility commission, created by § 65-1-101, an underground utility damage enforcement board for the purpose of enforcing this chapter.

(b) The Tennessee public utility commission will provide administrative and investigative support for the board, both subject to concurrence by the board. Pursuant to § 65-2-122, the Tennessee public utility commission shall charge the expenses associated with the administration and investigative duties of the board back to the board, subject to concurrence by the board.

(c) The board shall be composed of seventeen (17) members. Except for initial appointments, members who are not ex officio members shall be appointed to four-year terms. Appointments to the board shall be made as follows:

(1) The president of Tennessee One-Call, Inc., or the president's designee, who shall be a voting, ex officio member;

(2) One (1) member shall be a person representing the interests of Tennessee natural gas distribution systems, to be appointed by the governor, whose initial term shall be four (4) years. In considering appointees, the governor shall review a list of qualified persons submitted by the Tennessee Gas Association;

(3) One (1) member shall be a person representing the interests of Tennessee utility districts, to be appointed by the speaker of the senate, whose initial term shall be four (4) years. In considering appointees, the speaker shall review a list of qualified persons submitted by the Tennessee Association of Utility Districts;

(4) One (1) member shall be a person representing the interests of the Tennessee cable industry, to be appointed by the speaker of the house of representatives, whose initial term shall be four (4) years. In considering appointees, the speaker shall review a list of qualified persons submitted by the Tennessee Cable and Telecommunications Association;

(5) One (1) member shall be a person representing the interests of large Tennessee incumbent local exchange carriers with more than one hundred thousand (100,000) customers, to be appointed by the speaker of the house of representatives, whose initial term shall be four (4) years;

(6) One (1) member shall be a person who represents the interests of public utilities, as defined in § 65-4-101, and who provides water or wastewater services, to be appointed by the speaker of the senate, whose initial term shall be four (4) years;

(7) One (1) member shall be a person representing the interests of Tennessee towns and cities, to be appointed by the governor whose initial term shall be three (3) years. In considering appointees, the governor shall review a list of qualified persons submitted by the Tennessee Municipal League;

(8) One (1) member shall be a person representing the interests of small Tennessee incumbent local exchange carriers, to be appointed by the speaker of the senate, whose initial term shall be three (3) years. In considering appointees, the speaker shall review a list of qualified persons submitted by the Tennessee Telecommunications Association;

(9) One (1) member shall be a person representing the interests of Tennessee counties, to be appointed by the speaker of the house of repre-

sentatives, whose initial term shall be three (3) years. In considering appointees, the speaker shall review a list of qualified persons submitted by the Tennessee County Services Association;

(10) One (1) member shall be a person representing the interests of Tennessee road builders, to be appointed by the governor, whose initial term shall be three (3) years. In considering appointees, the governor shall review a list of qualified persons submitted by the Tennessee Road Builders Association;

(11) One (1) member shall be a person representing the interests of the excavation industry, to be appointed by the speaker of the senate, whose initial term shall be two (2) years. In considering appointees, the speaker shall review a list of qualified persons submitted by the Associated Builders and Contractors of Tennessee;

(12) One (1) member shall be a person representing the interests of interstate pipelines, to be appointed by the speaker of the house of representatives, whose initial term shall be two (2) years;

(13) One (1) member shall be a private property owner representing agricultural or homeowners' interests, to be appointed by the governor, whose initial term shall be two (2) years;

(14) One (1) member shall be a person representing the interests of municipal electric utilities with underground facilities, to be appointed by the speaker of the senate, whose initial term shall be two (2) years. In considering appointees, the speaker shall review a list of qualified persons submitted by the Tennessee Municipal Electric Power Association;

(15) One (1) member shall be a person representing the interests of cooperative electric systems with underground facilities, to be appointed by the speaker of the house of representatives, whose initial term shall be two (2) years. In considering appointees, the speaker shall review a list of qualified persons submitted by the Tennessee Electric Cooperative Association;

(16) One (1) member shall be a person who represents the interests of public utilities, as defined in § 65-4-101, and who provides electric power services, to be appointed by the governor, whose initial term shall be four (4) years; and

(17) One (1) member shall be a person representing the interests of contract locators, to be appointed by the speaker of the senate, whose initial term shall be four (4) years.

(d) Every two (2) years, the board shall elect a chair from among its members and other officers as the board deems necessary.

(e) The members of the board shall serve without compensation.

(f)(1) The board shall elect an executive committee, which shall be responsible for levying civil penalties and taking action as described in § 65-31-116.

(2) The executive committee shall be composed of the following members of the board:

(A) One (1) member from subdivision (c)(10), (c)(11), or (c)(13);

(B) One (1) member from a local government; and

(C) One (1) member from a utility.

(3)(A) Except as provided in subdivision (f)(3)(B), a member serving on the executive committee shall be limited to two (2) consecutive one-year terms.

(B) In order to stagger the terms of the members serving on the executive committee, the members serving on the executive committee as

of April 12, 2018, shall be appointed as follows:

(i) The person appointed under subdivision (f)(2)(A) shall serve a term of one (1) year, which shall expire on June 30, 2019;

(ii) The person appointed under subdivision (f)(2)(B) shall serve a term of two (2) years, which shall expire on June 30, 2020; and

(iii) The person appointed under subdivision (f)(2)(C) shall serve a term of three (3) years, which shall expire on June 30, 2021.

(C) Following the expiration of members' terms as prescribed in subdivision (f)(3)(B), a member serving on the executive committee shall be limited to two (2) consecutive one-year terms.

(g) The board and the executive committee may hold meetings and vote by telephone, television, or other electronic means.

65-31-115. Powers and duties of board.

(a) The board has the power and authority to:

(1) Promulgate rules in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, for the conduct of the affairs of the board;

(2) Adopt a seal for the board, prescribe the style of the seal, and alter the seal at the board's pleasure; and

(3) Make and enter into contracts.

(b) The board shall:

(1) Through its executive committee, initiate investigations and conduct hearings as required by § 65-31-116;

(2) Meet a minimum of two (2) times per calendar year;

(3) Examine data regarding underground utility damage and make recommendations to the general assembly for further updates to this chapter;

(4) Manage the underground damage prevention fund created by § 65-31-117;

(5) Assess its annual operating cost to operators in an amount equal to the amount necessary to offset the cost of investigative and administrative services performed by the Tennessee public utility commission at the direction of the board. The annual operating costs shall be apportioned in a proportional manner and collected by the one-call service from the operators; and

(6) Subject to the availability of funding in the underground damage prevention fund created by § 65-31-117, contract with appropriate entities or agencies to conduct training and public awareness for damage prevention.

(c)(1) Any member who misses more than fifty percent (50%) of the scheduled meetings in a calendar year shall be removed as a member of the board.

(2) The board's chair shall promptly notify, or cause to be notified, the appointing authority of any member who fails to satisfy the attendance requirement as prescribed in subdivision (c)(1).

(d) The executive committee shall review the reasonableness of fees and any subsequent changes to the fees charged to violators by the board's designated provider of compliance training ordered pursuant to § 65-31-112.

65-31-116. Investigation of complaint of violation of chapter — Issuance of citations — Hearing — Appeal — Petition for review.

(a) Upon receipt of a complaint of a violation of this chapter, the executive committee shall initiate an investigation of the complaint by requesting that the Tennessee public utility commission designate an employee of the commission who will investigate the complaint at the executive committee's direction.

(b) Any investigator acting at the direction of the executive committee may issue citations for violations of this chapter. Any citation may include a recommendation for the penalty to be assessed under § 65-31-112.

(c) If the person to whom the citation is issued under subsection (b) does not pay the citation or submit to ordered training, or both, within thirty (30) days, then the executive committee shall appoint a hearing officer to conduct a hearing and issue an initial order pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5. The hearing shall be held in the Nashville, Davidson County, offices of the Tennessee public utility commission at the time set forth in the citation notice of hearing.

(d) An appeal of the initial order pursuant to § 4-5-315 shall be heard by the executive committee.

(e) A person aggrieved by the final order may, within sixty (60) days, file a petition for judicial review pursuant to § 4-5-322. In the case of a decision involving an excavation in proximity to underground facilities of a municipally-owned utility located in a county having a population of greater than three hundred thousand (300,000), according to the 2010 federal census or any subsequent federal census, the petition for review shall be filed in the chancery court located in that county. In all other cases, the petition for review shall be filed in the chancery court of Davidson County.

(f) Nothing in this chapter shall grant the executive committee or the board jurisdiction over damage to utilities located above ground.

66-7-109. Notice of termination by landlord.

(a)(1) Except as provided in this section, fourteen (14) days' notice by a landlord shall be sufficient notice of termination of tenancy for the purpose of eviction of a residential tenant, if the termination of tenancy is for one of the following reasons:

(A) Tenant neglect or refusal to pay rent that is due and is in arrears, upon demand;

(B) Damage beyond normal wear and tear to the premises by the tenant, members of the household, or guests; or

(C) The tenant or any other person on the premises with the tenant's consent willfully or intentionally commits a violent act or behaves in a manner which constitutes or threatens to be a real and present danger to the health, safety or welfare of the life or property of other tenants, the landlord, the landlord's representatives or other persons on the premises.

(2) If the notice of termination of tenancy is given for one of the reasons set out in subdivision (a)(1)(A) or (B) and the breach is remediable by repairs or the payment of rent or damages or otherwise and the tenant adequately remedies the breach prior to the date specified in the notice from the landlord, the rental agreement will not terminate. If substantially the same act or omission which constituted a prior noncompliance of which notice was

given recurs within six (6) months, the landlord may terminate the rental agreement upon at least fourteen (14) days' written notice specifying the breach and the date of termination of the rental agreement.

(b) For all other defaults in the lease agreement, a thirty (30) day termination notice from the date such notice is given by the landlord shall be required for the purpose of eviction of a residential tenant.

(c) This section shall not apply to a tenancy where the rental period is for less than fourteen (14) days.

(d) Notwithstanding § 66-7-107 or this section to the contrary, three (3) days' notice by a landlord is sufficient notice of termination of tenancy to evict a residential tenant in a housing authority created pursuant to title 13, chapter 20, part 4 or 5, or a residential tenant, who is not mentally or physically disabled, in a rental property located in any county not governed by the Uniform Residential Landlord and Tenant Act, compiled in title 66, chapter 28, if the tenant, in either case, or any other person on the premises with the tenant's consent, willfully or intentionally:

(1) Commits a violent act;

(2) Engages in any drug-related criminal activity; or

(3) Behaves in a manner that constitutes or threatens to be a real and present danger to the health, safety, or welfare of the life or property of other tenants, the landlord, the landlord's representatives, or other persons on the premises.

(e)(1) If domestic abuse, as defined in § 36-3-601, is the underlying offense for which a tenancy is terminated, only the perpetrator may be evicted. The landlord shall not evict the victims, minor children under eighteen (18) years of age, or innocent occupants, any of whom occupy the subject premises under a lease agreement, based solely on the domestic abuse. Even if evicted or removed from the lease, the perpetrator shall remain financially liable for all amounts due under all terms and conditions of the present lease agreement.

(2) If a lease agreement is in effect, the landlord may remove the perpetrator from the lease agreement and require the remaining adult tenants to qualify for and enter into a new agreement for the remainder of the present lease term. The landlord shall not be responsible for any and all damages suffered by the perpetrator due to the bifurcation and termination of the lease agreement in accordance with this section.

(3) If domestic abuse, as defined in § 36-3-601, is the underlying offense for which tenancy could be terminated, the victim and all adult tenants shall agree, in writing, not to allow the perpetrator to return to the subject premises or any part of the community property, and to immediately report the perpetrator's return to the proper authority, for the remainder of the tenancy. A violation of such agreement shall be cause to terminate tenancy as to the victim and all other tenants.

(4) The rights under this section shall not apply until the victim has been judicially granted an order of protection against the perpetrator for the specific incident for which tenancy is being terminated, a copy of such order has been provided to the landlord, and the order:

(A) Provides for the perpetrator to move out or vacate immediately;

(B) Prohibits the perpetrator from coming by or to a shared residence;

(C) Requires that the perpetrator stay away from the victim's residence; or

(D) Finds that the perpetrator's continuing to reside in the rented or leased premises may jeopardize the life, health, and safety of the victim or the victim's minor children.

(5) Failure to comply with this section, or dismissal of an order of protection that allows application of this section, abrogates the rights provided to the victim, minor children, and innocent occupants under this section.

(6) The rights granted in this section shall not apply in any situation where the perpetrator is a child or dependent of any tenant.

(7) Nothing in this section shall prohibit the eviction of a victim of domestic abuse for non-payment of rent, a lease violation, or any violation of this chapter.

(f) Nothing in this section shall apply to rental property located in any county governed by the Uniform Residential Landlord and Tenant Act, compiled in chapter 28 of this title.

(g)(1) It is deemed to be material noncompliance and default by the tenant with the rental agreement, if the tenant pretends to have a disability-related need for an assistance animal in order to obtain an exception to a provision in a rental agreement that prohibits pets or establishes limits on the types of pets that tenants may possess on residential rental property. As used in this subsection (g), "assistance animal" means an animal that works, provides assistance, or performs tasks for the benefit of a person with a disability, or provides emotional support that alleviates one (1) or more identified symptoms or effects of a person's disability.

(2) The landlord may recover damages and obtain injunctive relief for any noncompliance and default by the tenant with the rental agreement under this subsection (g). The landlord may recover reasonable attorney's fees for breach of contract and nonpayment of rent as provided in the rental agreement.

(3) A provision in a rental agreement that authorizes a landlord to hold a tenant in breach or default of the rental agreement in accordance with this subsection (g) is not unconscionable and is fully enforceable.

66-21-105. Public official's contest of lien, encumbrance, or other document that constitutes cloud on title of real property interest.

(a) As used in this section, "public official" means:

(1) An individual who is a current or retired elected or appointed government official, including a state, county, metropolitan, or municipal official;

(2) An individual who is the head of a division or major unit or department within an agency or office of the executive, judicial, or legislative branch of state, county, metropolitan, or municipal government, regardless of the title of the position, and who, as a substantial part of the individual's duties, provides meaningful input on the development of policy goals or the implementation of policy;

(3) A high-ranking employee within the executive, judicial, or legislative branch of state, county, metropolitan, or municipal government who has a primary responsibility for one (1) or more of the following functions:

(A) Public information and legislative affairs;

(B) Fiscal, budget, and audit matters;

(C) Legal, security, or internal affairs;

(D) Information technology systems; and

(E) Human resources;

(4) A first responder, as defined in § 29-34-203; or

(5) A law enforcement officer, as defined in § 39-11-106.

(b)(1) A public official who is the subject of a lien, encumbrance, or any other document that reasonably constitutes a cloud on the title of a real property interest, filed with the register of any county, may file with the register a notarized affidavit, signed under penalty of perjury, that contains:

(A) A recital designating the type of instrument, office, book, and page number of the instrument;

(B) The affiant's mailing address;

(C) A statement that the affiant is a public official;

(D) A statement that the affiant believes that the document was filed without any reasonable basis or legal cause, and the affiant's factual basis for why the filed document lacks any reasonable basis or legal cause; and

(E) A statement that the affiant is not filing the affidavit contesting any document held by any entity listed in subsection (k).

(2) The secretary of state shall adopt a form of affidavit for use under subdivision (b)(1) and a form of certification for use under subsection (f).

(c) Once an affidavit is filed with the register pursuant to subdivision (b)(1), the register shall indicate on any available indices that the document referenced in subdivision (b)(1)(A) is "Contested — Under Review."

(d)(1) Within three (3) business days of filing an affidavit filed pursuant to subdivision (b)(1), the public official shall send a copy of the affidavit, by registered or certified mail, with return receipt requested, addressed to the filing party at the address listed on the lien, encumbrance, or other document.

(2) The copy of the affidavit is deemed delivered upon:

(A) Acceptance by the filing party;

(B) A showing that the filing party refused to accept delivery and it is so stated in the return receipt of the United States postal service; or

(C) The United States postal service returning the affidavit as undeliverable or unclaimed.

(3) The refusal or failure of the filing party to accept delivery of the registered or certified mail, or the refusal or failure to sign the return receipt, does not affect the validity of delivery of the affidavit, and a filing party who refuses or fails to accept delivery of the registered or certified mail is charged with knowledge of the contents of the affidavit.

(e)(1) Within twenty (20) business days of delivery of the affidavit to the filing party or refusal or failure to sign the return receipt, or notice by the United States postal service that the affidavit is undeliverable, a filing party who believes in good faith that the lien, encumbrances, or other document was filed with a reasonable basis or legal cause, may file an action seeking a determination in the chancery court of the county where the document was filed pursuant to title 29, chapter 14. The action must name the public official as an interested party in its caption.

(2) A petition filed pursuant to subdivision (e)(1) must set forth the factual basis showing that the filed lien, encumbrance, or other document was filed with a reasonable basis or legal cause, and must be accompanied by a cost

bond in the amount of two hundred dollars ($200).

(3) Any person who shares a property interest with the public official that is adversely affected by the filed lien, encumbrance, or other document may join in the action as an interested party.

(4) Following a reasonable period for responsive pleadings and discovery, the chancellor shall preside over a hearing at which proof may be offered on the issues raised and shall make a determination and issue a decree as to whether the lien, encumbrance, or other document was filed with any reasonable basis or legal cause at the close of the proceedings.

(f)(1) If, within twenty (20) business days of delivery of the affidavit to the filing party under subdivision (d), a petition and cost bond has not been filed as required by subdivision (e)(2), the public official may file with the register a certification, signed by the public official under penalty of perjury and verified by the clerk and master, stating that no petition has been filed.

(2) If the lien, encumbrance, or other document described in subdivision (b)(1) does not contain the name or address of the filing party, plaintiff, complainant, lienor, or owner of the lien, the public official may file with the register a certification, signed by the public official under penalty of perjury stating that the aforementioned name or address was not available.

(3) Any certification filed pursuant to subdivision (f)(1) or (f)(2) must include a recital designating the type of instrument, office, book, and page number of the instrument identifying the lien, encumbrance, or other document referenced in the affidavit filed pursuant to subdivision (b)(1) and shall serve as a release of the lien, encumbrance, or other document.

(g) If, following the hearing on a petition filed under subsection (e), the chancellor determines that there is reasonable basis or legal cause for the filing of the document, the filing party may file a final, unappealable court decree with the register, and the register shall remove the "Contested - Under Review" indication from the public records and the effectiveness of the lien, encumbrance, or other document must be reflected as the original date of filing.

(h) If, following the hearing on a petition filed under subsection (e), the chancellor determines that the lien, encumbrance, or other document was filed without any reasonable basis or legal cause, the public official may file a final, unappealable court decree with the register which shall serve as a release of the lien, encumbrance, or other document.

(i) The prevailing party in any action filed pursuant to subsection (e), including any person sharing a property interest with the public official, may recover costs and expenses, including reasonable attorneys' fees that are incurred in the action.

(j) Any governmental entity, as defined in § 29-20-102, may elect to insure or indemnify any public official for the cost of defending and removing liens, encumbrances, or other documents as described in this section, or any financing statements similarly filed and challenged pursuant to § 47-9-513(e), and for any other costs related to defending and removing a lien, encumbrance, or other document, but not including consequential damages. Any insurance or indemnification pursuant to this subsection (j) must be upon terms and conditions as the governmental entity establishes.

(k) This section providing for affidavits filed by public officials contesting liens, encumbrances, or other documents that reasonably constitute a cloud on the title of a real property interest does not apply to liens, encumbrances, or other documents if the originator, owner, or holder of the debt is any of the

following:

(1) A state or national bank or trust company insured by the federal deposit insurance corporation or an operating subsidiary of such a bank or trust company;

(2) A state or federal credit union insured by the national credit union administration;

(3) A residential mortgage lender or an industrial loan and thrift company licensed by the Tennessee department of financial institutions;

(4) An entity regulated by the federal farm credit administration;

(5) The federal housing administration (FHA);

(6) A federal home loan bank;

(7) The federal national mortgage association (FannieMae);

(8) The federal home loan mortgage corporation (FreddieMac);

(9) The federal agricultural mortgage corporation (FarmerMac);

(10) The veterans administration (VA); or

(11) Any lien, encumbrance, or other document that is filed with the register, where the mortgage electronic registration system is listed as the nominee for the originator, owner, or holder of the debt.

66-21-108. Recovery by real property owner who prevails in action challenging validity of lien.

(a) Except as provided in subsection (b), a real property owner who prevails in an action challenging the validity of a lien, including in a slander of title proceeding, shall recover:

(1) The owner's reasonable attorney's fees;

(2) Reasonable costs incurred by the owner to challenge the validity of the lien;

(3) Liquidated damages in an amount equal to ten percent (10%) of the fair market value of the property not to exceed one hundred thousand dollars ($100,000); and

(4) Any actual damages incurred by the owner.

(b) A real property owner shall not recover under subsection (a) if the action was brought to challenge a lien that is based on a loan agreement for which the encumbered property was listed as collateral to secure the repayment of the loan.

66-28-204. Unconscionability.

(a) If the court, as a matter of law, finds:

(1) A rental agreement or any provision thereof was unconscionable when made, the court shall enforce the remainder of the agreement without the unconscionable provision, or limit the application of any unconscionable provision to avoid an unconscionable result; or

(2) A settlement in which a party waives or agrees to forego a claim or right under this chapter or under a rental agreement was unconscionable at the time it was made, the court shall enforce the remainder of the settlement without the unconscionable provision, or limit the application of any unconscionable provision to avoid the unconscionable result.

(b) If unconscionability is put into issue by a party or by the court upon its own motion, the parties shall be afforded a reasonable opportunity to present evidence as to the setting, purpose, and effect of the rental agreement or

settlement to aid the court in making the determination.

(c) A provision in a rental agreement that authorizes a landlord to hold a tenant in breach of the rental agreement in accordance with § 66-28-505(f) is not unconscionable and is fully enforceable.

66-28-505. Noncompliance by tenant — Failure to pay rent.

(a)(1) Except as otherwise provided in subsection (b), if there is a material noncompliance by the tenant with the rental agreement or a noncompliance with § 66-28-401 materially affecting health and safety, the landlord may deliver a written notice to the tenant specifying the acts and omissions constituting the breach and that the rental agreement shall terminate as provided in subdivisions (a)(2) or (a)(3).

(2) If the breach for which notice was given in subdivision (a)(1) is remediable by the payment of rent, the cost of repairs, damages, or any other amount due to the landlord pursuant to the rental agreement, the landlord may inform the tenant that if the breach is not remedied within fourteen (14) days after receipt of such notice, the rental agreement shall terminate, subject to the following:

(A) All repairs to be made by the tenant to remedy the tenant's breach must be requested in writing by the tenant and authorized in writing by the landlord prior to such repairs being made; provided, however, that the notice sent pursuant to this subdivision (a)(2) shall inform the tenant that prior written authorization must be given by the landlord to the tenant pursuant to this subdivision (a)(2)(A); and

(B) If substantially the same act or omission which constituted a prior noncompliance of which notice was given recurs within six (6) months, the landlord may terminate the rental agreement upon at least seven (7) days' written notice specifying the breach and the date of termination of the rental agreement.

(3) If the breach for which notice was given in subdivision (a)(1) is not remediable by the payment of rent, the cost of repairs, damages, or any other amount due to the landlord pursuant to the rental agreement, the landlord may inform the tenant that the rental agreement shall terminate upon a date not less than fourteen (14) days after receipt of the notice.

(4) Nothing in subdivision (a)(2) or (a)(3) shall be construed as requiring a landlord to provide additional notice to the tenant other than the notice required by this section.

(b) Notwithstanding subsection (a), if the tenant waives any notice required by this section, the landlord may proceed to file a detainer warrant immediately upon breach of the agreement for failure to pay rent without the landlord providing notice of such breach to the tenant; provided, however, that this subsection (b) shall not reduce the tenant's grace period as provided in § 66-28-201. The tenant's waiver pursuant to this subsection (b) shall be set out in twelve (12) point bold font or larger in the rental agreement.

(c) Notwithstanding notice of a breach or the filing of a detainer warrant pursuant to this section, the rental agreement is enforceable by the landlord for the collection of rent for the remaining term of the rental agreement.

(d) Except as otherwise provided in this chapter, the landlord may recover damages and obtain injunctive relief for any noncompliance by the tenant with the rental agreement or § 66-28-401. The landlord may recover reasonable attorney's fees for breach of contract and nonpayment of rent as provided in the

rental agreement.

(e) The landlord may recover punitive damages from the tenant for willful destruction of property caused by the tenant or by any other person on the premises with the tenant's consent.

(f) It is deemed to be material noncompliance by the tenant with the rental agreement, if the tenant pretends to have a disability-related need for an assistance animal in order to obtain an exception to a provision in a rental agreement that prohibits pets or establishes limits on the types of pets that tenants may possess on residential rental property. As used in this subsection (f), "assistance animal" means an animal that works, provides assistance, or performs tasks for the benefit of a person with a disability, or provides emotional support that alleviates one (1) or more identified symptoms or effects of a person's disability.

66-29-125. Filing of report.

(a) For the property held for the period of January 1, 2017, through December 31, 2017, the report under § 66-29-123 must be filed before May 1, 2018. For property held for the period of January 1, 2018, through June 30, 2019, the report under § 66-29-123 must be filed before November 1, 2019. Thereafter, the report must be filed before November 1 of each year and must cover the twelve (12) months preceding July 1 of that year.

(b) Before the date for filing the report under § 66-29-123, the holder of property presumed abandoned may request the treasurer to extend the time for filing. The treasurer may grant an extension for good cause. If the extension is granted, the holder may pay or make a partial payment of the amount the holder estimates ultimately will be due. The payment or partial payment terminates accrual of interest on the amount paid.

66-35-102. Rent control by local governments prohibited — Zoning provisions — Affordable housing.

(a) A local governmental unit shall not enact, maintain or enforce an ordinance or resolution that would have the effect of controlling the amount of rent charged for leasing private residential or commercial property.

(b)(1) Notwithstanding any provision of law to the contrary, a local government unit, or any subdivision or instrumentality thereof, shall not enact, maintain, or enforce any ordinance, resolution, regulation, rule, or other requirement of any type that:

(A) Requires the direct or indirect allocation of existing or newly constructed private residential or commercial rental units to be sold or rented at below market rates;

(B) Conditions any zoning change, variance, building permit, development entitlements through amendment to the zoning map, or any change in land use restrictions or requirements, on the allocation of existing or newly constructed private residential or commercial rental units to be sold or rented at below market rates; or

(C) Requires a person to waive the person's constitutionally protected rights related to real property in order that the local government unit can increase the number of existing or newly constructed private residential or commercial rental units that would be available for purchase or lease at below market rates within the jurisdiction of the local government unit.

(2) This subsection (b) does not prohibit a local government unit from creating or implementing a purely voluntary incentive-based program designed to increase the construction or rehabilitation of workforce or affordable private residential or commercial rental units, which may include providing local tax incentives, subsidization, real property or infrastructure assistance, or any other incentive that makes construction of affordable housing more economical, so long as no power or authority granted to the local government unit to regulate zoning or land use planning is used to incentivize or leverage a person to develop, build, sell, or rent housing at below market value.

(3) Any person who suffers an ascertainable loss of money or property, real, personal, or mixed, or any other article, commodity, or thing of value wherever situated, as a result of the practices prohibited by this section, may bring an action individually to recover actual damages.

(c) [Deleted by 2018 amendment.]

67-1-1704. Disclosure for administrative purposes — Tax collection.

(a) Returns and tax information shall, without written request, be open to inspection by or disclosure to officers and employees of the department whose official duties require such inspection or disclosure for tax administration purposes.

(b)(1) A return or tax information may be disclosed in a federal or state judicial or administrative proceeding pertaining to tax administration, but only if:

(A) The taxpayer is a party to such proceeding;

(B) The treatment of an item reflected on such return is directly related to the resolution of an issue in the proceedings; or

(C) Such return or tax information directly relates to a transactional relationship between a person who is a party to the proceeding and the taxpayer that directly affects the resolution of an issue in the proceeding.

(2) Such return or tax information shall not be disclosed as provided in subsections (a) and (b) and in §§ 67-1-1705(a) and 67-1-1707(a), however, if the commissioner determines that such disclosure would identify a confidential informant or seriously impair a civil or criminal tax investigation.

(c) Returns and tax information may be disclosed to any person to the extent necessary in connection with the processing, storage, transmission, and reproduction of returns and tax information, and the programming, maintenance, repair, testing and procurement of equipment and software, for purposes of tax administration.

(d) Upon request in writing, returns and tax information may be disclosed to duly authorized officials of a unit of local government of this state for the purpose of ascertaining whether proper local taxes or the tax imposed by § 67-4-704 is being paid. Upon written request, tax information may also be disclosed to duly authorized officials of a unit of local government of this state to the extent necessary to ascertain whether allocations from state levied taxes are being distributed to the correct unit of local government; provided, that such information shall not include the taxpayer's returns, receipts, income, tax liability, tax payments, or other financial information. For purposes of ascertaining whether proper local severance taxes are being paid pursuant to chapter 7, part 2 of this title, "authorized officials of a unit of local government"

means the county mayor or a member of the county governing body. No unit of local government nor any official or employee of a unit of local government who receives returns or tax information under this subsection (d) shall disclose such information to any person other than the person to whom it relates, except as otherwise may be authorized by law. Any official or employee of a unit of local government who has or has had, at any time, access to any return or tax information under this subsection (d) shall be subject to all of the penalties and restrictions applicable to an officer or employee of the state under § 67-1-1709.

(e) A unit of local government receiving tax information under subsection (d) may disclose to a contractor or consultant the name, address, and situs of one (1) or more taxpayers for the purpose of ascertaining whether allocations of state and local taxes are being distributed to the correct unit of local government. Such information shall not include the taxpayer's returns, receipts, income, tax liability, tax payments, or other financial information. No consultant or contractor of a unit of local government who receives tax information under this subsection (e) shall disclose such information to any other person. Any consultant or contractor of a unit of local government who has or has had, at any time, access to any tax information under this subsection (e) shall be subject to all the penalties and restrictions applicable to an officer or employee of the state under § 67-1-1709.

(f) Returns and tax information may be disclosed for the purposes of tax administration to either house of the general assembly, or to any committee or subcommittee of the general assembly, but only upon a lawfully executed subpoena being served on the commissioner who demands such returns or information.

(g) Returns and tax information shall be open to inspection by, and/or disclosure to, any person contracting for the collection of unpaid taxes under part 14 of this chapter. This disclosure is authorized only to the extent necessary for the collection of unpaid taxes by that person. Any person receiving returns and/or tax information under this section shall be subject to the confidentiality provisions, including penalties, provided by this part.

(h) Returns, tax information and tax administration information may, in the commissioner's discretion, be disclosed for the exclusive purpose of participating in the multistate tax commission joint audit program. Any person receiving returns, tax information or tax administration information under this subsection (h) shall be subject to the confidentiality provisions, including penalties, set out in this part; and the commissioner is authorized to take such actions as deemed necessary to ensure that any such persons receiving returns, tax information or tax administration information shall maintain the confidentiality provisions set out in this part.

(i) Tax information may, in such form and manner as prescribed by the commissioner, be disclosed to the extent reasonably necessary to facilitate accurate reporting by entities required to file duplicate information returns pursuant to § 67-6-411. Such tax information shall not be used by the recipient for any purpose other than producing and filing duplicate information returns pursuant to § 67-6-411. Any person who receives such tax information under this subsection (i) is prohibited from disclosing such information and shall be subject to the confidentiality provisions, including penalties, set out in this part. The commissioner is authorized to take such actions as deemed necessary to ensure that any persons receiving such tax information shall maintain the confidentiality provisions set out in this part.

67-1-1802. Refunds — Report of debts.

(a)(1)(A) The commissioner of revenue, with the approval of the attorney general and reporter, except as provided in subdivision (a)(4), is empowered and directed to refund to taxpayers all taxes collected or administered by the commissioner that are, on the date of payment, paid in error or paid against any statute, rule, regulation or clause of the constitution of this state or of the United States. Such refunds shall include, but not be limited to, credit carryovers generated after an audit review of returns, reports, or other documents filed by the taxpayer, including amendments to the returns, reports, or other documents. Such refunds do not, however, include credits generated by mechanical processing or mechanical mathematical verification processes. The commissioner is also authorized to automatically issue a credit or refund, without the necessity of the approval processes set out in this subsection (a), for the portion of estimated taxes paid in excess of the actual liability established by the initial and subsequently filed return for the tax period. The authority granted in this subdivision (a)(1)(A) extends only to taxes for which a claim is filed, with the commissioner under penalties of perjury, within three (3) years from December 31 of the year in which the payment was made. The claim must set forth each ground upon which a refund is claimed, the amount of such refund, the tax period, the tax type, and information reasonably sufficient to apprise the commissioner of the general basis for the claim. A refund requested on a franchise and excise tax return, or amended return, properly filed with the commissioner is deemed to comply with those requirements. The entire disputed amount of tax, penalty and interest must be paid before any claim for refund can be filed. Sales or use taxes which were collected from or passed on to customers by the taxpayer shall not be refunded, unless the taxpayer has refunded or credited the sales or use tax to its customers.

(B)(i) Any taxpayer requesting a refund in the amount of two hundred dollars ($200) or more that is not eligible for automatic credit or refund pursuant to subdivision (a)(1)(A) shall complete and submit a written report of debts owed to a claimant as defined in § 67-1-1808 on a form prescribed by the commissioner to accompany the claim for refund. If a debt is reported and if the claim for refund is approved, any or all of the refund amount shall be subject to offset to recover the amount of such debt, subject to the requirements of § 67-1-1808. Any person who, with intent to deceive, provides false information on such report commits the Class A misdemeanor offense of perjury pursuant to § 39-16-702. Such report shall state whether or not such person owes or does not owe any of the following debts as of the date of the claim:

(a) State tax liabilities;

(b) Child support;

(c) Overpayment of unemployment compensation benefits;

(d) Overpayment of medical assistance benefits owed the bureau of TennCare;

(e) Student loan or other obligation due to the Tennessee student assistance corporation;

(f) Fees, costs or restitution owed to a clerk who serves a court of criminal jurisdiction;

(g) Costs of incarceration;

(h) Judgments or liens in favor of a state agency, department, commission, or bureau;

(i) All other debts owed to any other claimant.

(ii) Each of the debts in subdivision (a)(1)(B)(i) that are listed in the report shall be preceded by the words "Yes" and "No" and a taxpayer shall make a cross mark (X) or other similar mark opposite the debt the taxpayer owes or does not owe. If a taxpayer marks "Yes" for any such debt, the taxpayer shall attach documentation identifying the claimant to whom the debt is owed and the outstanding balance of the debt. The report shall clearly state in bold face type that a person who, with intent to deceive, provides false information on the report is guilty of the Class A misdemeanor offense of perjury. The report required by this subdivision (a)(1)(B) shall be made on a paper writing in substantially the following form:

REPORT OF DEBTS

Pursuant to Tennessee Code Annotated §§ 67-1-1802 and 67-1-1808, if you are seeking a refund of $200.00 or more you are required to complete and attach this report to your claim for refund. Make a "X" in the "Yes" box if you owe any of the debts listed below to any state agency, department, bureau, commission or other state authority ("claimant").

For each debt that you report, attach documentation identifying the claimant to whom you owe the debt and the outstanding balance of such debt as of the date you submit the refund claim. If your refund claim is approved, any or all of your refund payment will be subject to offset and reduced by the amount of any debt owed.

If you do not owe any of the debts listed below to a claimant, make a "X" in the "No" box. After completion, please read the paragraphs below and provide a signature and date on the lines provided.

Any person who, with intent to deceive, provides false information on this report is guilty of the Class A misdemeanor offense of perjury.

Yes _____ No _____ State tax liabilities;

Yes _____ No _____ Child support;

Yes _____ No _____ Overpayment of unemployment compensation benefits;

Yes _____ No _____ Overpayment of medical assistance benefits owed the bureau of TennCare;

Yes _____ No _____ Student loan or other obligation due to the Tennessee student assistance corporation;

Yes _____ No _____ Fees, costs or restitution owed to a clerk who serves a court of criminal jurisdiction;

Yes _____ No _____

Costs of incarceration;

Yes _____ No _____

Judgments or liens in favor of a state agency, department, commission, or bureau;

Yes _____ No _____

Any other debt owed to any other claimant.

I certify that the foregoing report is true and correct to the best of my knowledge and understanding. I further acknowledge that providing false information on this report constitutes the offense of perjury under Tennessee Code Annotated § 39-16-702 and is punishable under the laws of the state of Tennessee.

Signature of Taxpayer, Officer or Authorized Representative:

_____

Date: _____

(2) The commissioner is authorized to make refunds without a claim being filed if the commissioner is in possession of proper proof and facts that a refund is due within three (3) years from December 31 of the year in which the payment was made.

(3) The commissioner is authorized to refund excise taxes due a taxpayer because of a decrease in net income divulged by an examination by the internal revenue service; provided, that a claim is filed with the commissioner, supported by proper proof, within three (3) years from the date of such redetermination of net income by the internal revenue service.

(4) The commissioner is authorized to refund estate or inheritance taxes due a taxpayer because of a decrease in federal estate tax resulting from an examination by the internal revenue service; provided, that a claim is filed with the commissioner, supported by proper proof, within two (2) years from the date of such redetermination of the estate by the internal revenue service.

(5) The commissioner is authorized to refund, without the necessity of a claim having been filed, inheritance taxes due a taxpayer because of a decrease in inheritance tax resulting from an examination by the commissioner.

(6)(A) The commissioner is authorized and empowered, in the commissioner's discretion, to designate subordinate officials in the department to approve, on the commissioner's behalf, claims for refunds in amounts of five thousand dollars ($5,000) or less. Only one (1) such subordinate official and one (1) alternate subordinate official shall be designated to approve any one (1) class of claims. The commissioner shall notify, in writing, the commissioner of finance and administration and the attorney general and reporter as to the names of any such subordinate officials so designated.

(B) The commissioner is also authorized and empowered, in the commissioner's discretion, to approve claims for refunds in amounts of more than five thousand dollars ($5,000) but not more than fifteen thousand dollars ($15,000). The commissioner is authorized and empowered to designate, in the commissioner's discretion, subordinate officials in the department to initially review claims for refund. Such subordinate official

shall make a finding in regard to each claim recommending either approval or disapproval. This finding shall be reviewed by the legal office of the department of revenue, which shall make its own recommendation approving or disapproving the claim. Both these findings shall be submitted to the commissioner, or the commissioner's designated subordinate official, who shall make a final determination, either approving or disapproving the claim in the commissioner's or the commissioner's designated subordinate official's discretion, based on all information available to the commissioner or the commissioner's designated subordinate official. The findings of the designated subordinate official and legal office shall be advisory only and shall not be construed to limit the discretion of the commissioner in making refunds under this subsection (a). The commissioner is authorized and empowered to designate subordinate officials in the department to approve, on the commissioner's behalf, claims for refund under this subdivision (a)(6)(B).

(C) The commissioner is also authorized and empowered to approve claims for refunds in amounts of more than fifteen thousand dollars ($15,000); provided, that the attorney general and reporter may require that the refund of such claims or any class of such claims be subject to the attorney general and reporter's prior review and approval.

(7) A refund which is authorized solely by a final court adjudication shall not be made to any person who is not either a party to such action or a party to another similar action.

(8) In any case in which the statute of limitations on the assessment of tax is extended by agreement in writing pursuant to § 67-1-1501(b)(5), the periods specified in this subsection (a) which limit the ability of the commissioner to refund taxes may also be extended for an equivalent period of time by agreement in writing entered into by the commissioner or the commissioner's delegate and the taxpayer.

(b)(1) All claims for refund filed pursuant to this section shall be finally determined within six (6) months following receipt of the claim. If the claim for refund is denied, the commissioner shall promptly notify the claimant of the denial and the claimant's right to file a suit for refund in the appropriate chancery court of this state within one (1) year from the date that the claim for refund was filed with the commissioner.

(2) If a claim is not determined within the six-month period following receipt by the commissioner of such claim, the claim shall be deemed to be denied for the purpose of filing suit in chancery court.

(c)(1) A suit challenging the denial or deemed denial of a claim for refund shall be filed in the appropriate chancery court of this state within one (1) year from the date that the claim for refund was filed with the commissioner; provided, that a taxpayer and the commissioner or the commissioner's delegate may enter into an agreement in writing within one (1) year from the date the taxpayer filed a claim for refund in which the taxpayer and the commissioner or the commissioner's delegate consent to suit being filed in chancery court beyond the one-year period provided in this subdivision (c)(1) and that, in the case of an agreement, the taxpayer may file suit in the appropriate chancery court challenging the denial or deemed denial of a claim for refund within the agreed upon period.

(2) In a suit challenging the denial or deemed denial of a claim for refund, the chancery court shall conduct a de novo trial of the suit; provided, that the

court shall have no jurisdiction in cases in which the issue is the existence, continued existence, or amount of a debt set off against a tax refund, or in which the issue is the validity of an assessment made pursuant to § 67-1-1808(i). The remedies established in § 67-1-1808 are a taxpayer's sole and exclusive remedies to challenge the existence, continued existence, or amount of a debt set off against a tax refund, or to challenge the validity of an assessment made pursuant to § 67-1-1808(i).

(3) The commissioner, by written notice promptly delivered to the taxpayer, may waive the requirement that the taxpayer file a claim for refund, in which case the taxpayer may file suit in the appropriate chancery court of this state for a refund within one (1) year following the date of such waiver by the commissioner, and such suit shall proceed in all respects, including for the purpose of determining the date from which interest thereon should be calculated, as if proper and timely claim for refund had been filed by the taxpayer, and either denied or not acted upon by the commissioner within the period specified herein.

(d) This section is specifically made applicable to a refund arising from the application of § 67-6-507(e)(6). If a certified service provider, as defined in § 67-6-102, has assumed sales and use tax return filing responsibilities of the seller, the provider shall have the right to claim, on behalf of the seller, any bad debt allowance or refund available to the seller under § 67-6-507.

67-2-107. Returns generally.

(a) Every person liable for the tax or taxes imposed by or levied under the authority of this chapter shall on or before the fifteenth day of the fourth month commencing after the end of the taxpayer's tax year make out, on forms prescribed by the commissioner, and file with the commissioner a statement or return setting out, in detail, the stocks and/or bonds for the receipt of income from which the taxpayer is liable for the tax or taxes imposed by this chapter, each security to be set out separately, and listing opposite each such item or security the amount of income received from the item or security during the taxpayer's preceding tax year; and showing the amount of the tax owing by such person to the state of Tennessee; and showing the residence of the taxpayer at the time of the filing of the return, and the residence of such taxpayer as of twelve o'clock (12:00) noon on the last day of the taxpayer's preceding tax year.

(b)(1) Any such statement or report shall be signed and verified by the oath of the president, vice president, treasurer, assistant treasurer or managing agent in this state of the association, trust or corporation making the statement or report.

(2) Returns filed by individuals shall contain or be verified by a written declaration that the return is made under the penalties of perjury.

(c) The commissioner has the power to require all such other information from any person filing a return as, in the commissioner's opinion, may be necessary to effectuate the purposes of this chapter.

(d) It is the duty of the department to provide suitable blanks and forms on which taxpayers, subject to this chapter, shall make their returns for taxation pursuant to this section.

(e) An extension of six (6) months in which to file the return required by this section, and to pay the tax shown to be due, shall be granted; provided, that a

request for extension is made in writing by the taxpayer or the taxpayer's authorized representative on a form prescribed by the commissioner, or by providing a copy of the taxpayer's request for an automatic extension of time to file the federal income tax return for the corresponding tax period. The request shall not be filed on the original due date of the return, but, instead, shall be attached to the return filed on or before the extended due date. Interest, as provided by § 67-1-801(a), shall attach to the unpaid amount due, from the original due date of the return until the date paid. If the taxpayer fails to file the request for extension required by this subsection (e), or if the return is not filed with payment of the tax shown to be due by the extended due date, penalty as provided by § 67-1-804 shall attach as though no extension had been granted.

(f)(1) As used in this subsection (f), "perfection period" means a period of ten (10) calendar days, beginning with the day after date of the first transmission of an electronic return that is subsequently rejected by the commissioner, for the taxpayer to either:

(A) Correct any errors in the return that cause it to fail to meet any of the validation criteria set by the commissioner and retransmit it; provided, that the commissioner subsequently accepts the corrected return; or

(B) File a paper return postmarked on or before the expiration of the ten (10) calendar days; provided, that the taxpayer is not required to electronically file or the commissioner grants the taxpayer permission to file the return on paper.

(2) A taxpayer's electronically filed return shall be treated as filed on the date of the last transmission prior to the return being accepted by the commissioner, except as provided in subdivision (f)(3). A taxpayer's paper return shall be treated as filed when mailed and postmarked, except as provided in subdivision (f)(3).

(3) A return that complies with the requirements of the perfection period shall be treated as filed on the date of the first electronic transmission.

67-2-125. Angel investor tax credit.

(a) For tax years beginning January 1, 2017, and thereafter, there shall be allowed a credit of thirty-three percent (33%) of the value of a direct or indirect cash investment by an angel investor against the liability of such angel investor under this chapter in the tax year in which the investment was made. All credits allowed under this subsection (a) are nonrefundable and nontransferable. Any unused credit allowed under this subsection (a) may be carried forward for five (5) years after the tax year in which the credit originated.

(1) For purposes of this section, "angel investor" means a natural person who:

(A) Is an accredited investor as defined in 17 CFR 230.501(a)(5) or (a)(6); and

(B) Invests in a company that, at the time of the investment:

(i) Is an innovative small business with high-growth potential, including, but not limited to, tech-enabled startups and companies in the fields of consumer products, medical devices, life science, or additive manufacturing; or is a company that has received small business innovation research/small business technology transfer (SBIR/STTR) funding; or is commercializing technology developed at a research

institution within this state;

(ii) Is not a professional service firm and is not primarily engaged in the provision of goods or services within the following industries: construction, leisure, hospitality, retail, real estate, insurance, banking, lobbying, consulting, alcohol, or gambling;

(iii) Has been in business for five (5) or fewer years;

(iv) Has, based on the prior fiscal year, three million dollars ($3,000,000) or less in gross annual revenue; and

(v) Has fifty (50) or fewer full-time employees, as defined in § 67-4-2109(f)(1)(A), and at least sixty percent (60%) of those employees perform the majority of their job duties within this state.

(2) The credit allowed under this subsection (a) shall be limited to fifty thousand dollars ($50,000) per angel investor in any tax year.

(3) For tax years beginning in 2017, a maximum of three million dollars ($3,000,000) in tax credits may be allowed under this subsection (a). For tax years beginning in 2018, a maximum of four million dollars ($4,000,000) of credits may be allowed under this subsection (a). For tax years beginning January 1, 2019, and thereafter, a maximum of five million dollars ($5,000,000) of credits may be allowed under this subsection (a).

(4)(A) A credit may be allowed under this subsection (a) only if the investment is at least fifteen thousand dollars ($15,000) and represents no more than forty percent (40%) of the capitalization of the company at the time of the investment.

(B) Within sixty (60) days of the date of the investment, the angel investor shall apply to the Tennessee technology development corporation, in a manner to be determined by the Tennessee technology development corporation, for a certificate of qualification under this section. The angel investor shall affirm that all requirements for qualification under subdivision (a)(1) have been met, and shall provide proof of the investment in a form to be determined by the Tennessee technology development corporation. Certificates of qualification shall be issued by the Tennessee technology development corporation on a first-come, first-served basis. The Tennessee technology development corporation shall ensure that the amount of all certificates of qualification issued under this subdivision (a)(4)(B) does not exceed the maximum annual amounts described in subdivision (a)(3).

(C) The angel investor shall submit the certificate of qualification described in subdivision (a)(4)(B) to the department of revenue when claiming a credit under this section.

(5) A qualified angel investor who invests in a company located in a Tier 4 county, as defined in § 67-4-2109(a)(2)(C), shall be allowed a credit of fifty percent (50%) of the value of such investment against the liability of such angel investor under this chapter. The angel investor shall otherwise be subject to all other requirements described in this section.

(b) A review of the cumulative effectiveness of the credit authorized under this section shall be conducted by the Tennessee technology development corporation by July 1, 2020. Such review shall include, but is not limited to, the number and type of businesses that received angel investments, the number of angel investors and the aggregate amount of cash investments, the current status of each business that received angel investments, and the estimated economic impact to the state of businesses that received an investment under

this section. A report containing the findings of the review conducted pursuant to this subsection (b) shall be generated. A copy of the report shall be transmitted to the governor, the speaker of the senate, the speaker of the house of representatives, the chair of the finance, ways and means committee of the senate, the chair of the finance, ways and means committee of the house of representatives, the commissioner of economic and community development, and the commissioner of revenue.

67-3-419. Exemption for methanol sold for use in highway or nonhighway vehicles.

There shall be exempt from the taxes imposed in §§ 67-3-201 and 67-3-202 and by chapter 6 of this title methanol sold for use in highway or nonhighway vehicles that is not composed of or blended with gasoline, diesel fuel, or other fuels or petroleum products.

67-4-601. Rights of local governments preserved — Amount of tax — Liability — Application — Scott County pilot project — Substance abuse prevention programs — Facilities.

(a) It is the expressed intent of the general assembly that counties and municipalities shall continue to have the authority to levy a local litigation tax and that no provision of chapter 488 of the Acts of 1981 shall be construed to limit or repeal such authority.

(b)(1) Notwithstanding any other law to the contrary, each county by resolution of its legislative body, adopted by two-thirds (⅔) majority vote, may levy a privilege tax on litigation in all civil and criminal cases instituted in the county, other than those instituted in municipal courts, in addition to all other such privilege taxes authorized by law. Any tax levy adopted under this subsection (b) shall not exceed ten dollars ($10.00) per case; and the proceeds shall be used exclusively for the purposes of jail or workhouse construction, reconstruction or upgrading, or to retire debt, including principal and interest and related expenses, on such construction, reconstruction or upgrading or for courthouse renovation.

(2) Any tax levy adopted under this subsection (b) shall only be effective until such time as all expenses of the construction, reconstruction, upgrading or renovation project have been paid, or until such time as the debt for such project has been retired. For the purposes of this subsection (b), debt includes principal, interest, origination costs and related expenses, as well as any debt issued for the purposes of refinancing the original indebtedness.

(3) Notwithstanding any other law to the contrary, the state shall not be liable for or pay the tax levied under this subsection (b) in any civil or criminal case on behalf of any individual because such individual is indigent.

(4) Notwithstanding any law to the contrary, this subsection (b) shall not apply to any publicly owned hospital in any county having a population of not less than seventy-three thousand six hundred (73,600) and not more than seventy-three thousand nine hundred (73,900), if the county commission for such county by majority vote provides that any such hospital shall be exempt.

(5) Notwithstanding any law to the contrary, upon the adoption of a resolution by a two-thirds (⅔) majority vote of a county legislative body, a privilege tax on litigation in all civil and criminal cases may be levied in an

amount not to exceed twenty-five dollars ($25.00) per case.

(6) Notwithstanding any law to the contrary, upon the adoption of a resolution by a two-thirds (⅔) majority vote of a county legislative body, a privilege tax on litigation in all civil and criminal cases may be levied in an amount not to exceed twenty-five dollars ($25.00) per case, to be used exclusively for court house security, in addition to those purposes identified in subdivision (b)(1).

(7)(A) Notwithstanding any other law to the contrary, a county may adopt the privilege tax in subdivision (b)(5) or (b)(6), or both.

(B)(i) Notwithstanding the exclusive use restriction in subdivision (b)(6), a county that adopts the privilege tax in subdivision (b)(5) or (b)(6), or both, may also adopt a resolution by a two-thirds (⅔) majority vote of the legislative body, to use those funds, in addition to other purposes as permitted under this section, for the purpose of obtaining and maintaining software and hardware associated with collecting, receiving and maintaining records for law enforcement agencies, including county sheriff offices, jails and municipal or metropolitan police departments. This project may include computerizing agency operations, replacing existing systems with high technology systems that collect and share data on criminal activity and historical data with other law enforcement agencies, including fusion centers, and collecting and sharing biometric information for positive criminal or inmate identification. New or replacement systems shall incorporate modern software concepts and architecture, which shall include n-tier architecture, source code compliant with object-oriented programming concepts, and the use of a relational database management system for data storage.

(ii) Any use of a privilege tax for purposes under this subdivision (b)(7)(B) shall only be permitted until such time as all expenses for the purchase, installation, training, maintenance and associated costs for the project as described under subdivision (b)(7)(B)(i) have been paid, or until such time as the debt for that project has been retired.

(iii) For purposes of this subdivision (b)(7)(B), "debt" includes principal, interest, origination costs and related expenses, as well as any debt issued for the purposes of refinancing the original indebtedness.

(8) Any legislative body that had adopted a resolution by a two-thirds (⅔) vote under subdivision (b)(5) or (b)(6) prior to August 27, 2008, shall not be required to adopt another resolution for this section to continue to apply in such county.

(9) Notwithstanding any law to the contrary, in any county having a population of not less than sixteen thousand eight hundred (16,800) nor more than sixteen thousand nine hundred (16,900), according to the 2000 federal census or any subsequent federal census, upon the adoption of a resolution by two-thirds (⅔) majority vote of the county legislative body, a privilege tax on litigation in all civil and criminal cases may be levied in an amount not to exceed twenty-five dollars ($25.00) per case to be used for equipment and personnel costs of the county sheriff's department or for those purposes identified in subdivision (b)(1).

(10) Notwithstanding any law to the contrary, in any county having a population of not less than one hundred eighty-three thousand one hundred (183,100) nor more than one hundred eighty-three thousand two hundred (183,200), according to the 2010 federal census or any subsequent federal

census, upon the adoption of a resolution by a two-thirds (⅔) majority vote of the county legislative body, a privilege tax on litigation in all civil cases in that county may be levied in an amount not to exceed twenty-five dollars ($25.00) per case. A civil case shall not include any original proceedings brought in juvenile court where the court is exercising jurisdiction granted under title 37, chapter 1. The revenue collected from this subdivision (b)(10) shall be used exclusively for personnel for and operating costs of the circuit court.

(c)(1) Notwithstanding any law to the contrary, a pilot project concerning drug testing in public schools may be conducted in accordance with this subsection (c).

(2) For the purposes of such pilot project, Scott County, or any municipality within such county, is authorized, by a two-thirds (⅔) vote of its legislative body, to levy an additional litigation tax per case, to be set by the county commission or municipal legislative body, as applicable, and to be denominated as part of the court costs, in matters before the local general sessions, juvenile, and municipal courts.

(3) Any revenue generated by Scott County, or a municipality within such county, pursuant to subdivision (c)(2), shall be used exclusively to support local nonprofit drug testing programs authorized to operate in the public school system, and shall be distributed on a monthly basis by the county or municipality to such authorized local nonprofit drug testing program.

(4) The taxes levied by this subsection (c) shall be in addition to any other taxes levied on litigation.

(5) The department of education is authorized to request information from Scott County on the results of the pilot project, and to recommend to the general assembly, or other local education agency, any element of the pilot project which may have statewide applicability.

(d) Notwithstanding any other law to the contrary, any county having a population of not less than sixteen thousand six hundred (16,600) nor more than sixteen thousand seven hundred (16,700), according to the 2000 federal census or any subsequent federal census, may, by a two-thirds (⅔) vote of its legislative body, levy an additional litigation tax of twenty-five dollars ($25.00) in all criminal cases instituted in the county. Such tax is in addition to all other such privilege taxes authorized by law. Any revenue collected pursuant to this subsection (d) shall be deposited in the county general fund for the sole purpose of providing grants for services in support of physically and sexually abused children.

(e) Notwithstanding any other law to the contrary, any county having a population of not less than thirty nine thousand fifty (39,050) nor more than thirty nine thousand one hundred fifty (39,150), according to the 2000 federal census or any subsequent federal census, may, by a two-thirds (⅔) vote of its legislative body, levy an additional litigation tax of five dollars ($5.00) in all civil and criminal cases instituted in the county. Such tax is in addition to all other such privilege taxes authorized by law. Any revenue collected pursuant to this subsection (e) shall be deposited in the county general fund for the sole purpose of providing grants for services to children provided by the Tennessee Court Appointed Special Advocates Association (CASA).

(f)(1) In addition to any other tax imposed pursuant to this chapter, there is levied a privilege tax on litigation in all civil and criminal cases instituted in the general sessions court in any county having a population of not less than

thirty-five thousand six hundred (35,600) nor more than thirty-five thousand seven hundred (35,700), according to the 2010 federal census or any subsequent federal census, in an amount not to exceed four dollars seventy-five cents ($4.75) and upon the adoption of a resolution by a two-thirds (⅔) majority vote of the county legislative body.

(2) Notwithstanding the apportionment provisions of § 67-4-606, any revenue collected pursuant to this subsection (f) shall be deposited in the county general fund, with the proceeds to be used exclusively for the funding of the general sessions court, and for ensuring compliance with fire codes for the existing courthouse justice center facilities. No proceeds derived from the tax shall be used to increase or decrease the salary of the general sessions judge during such judge's term in office. All expenditures made for courthouse justice center facilities in accordance with this subsection (f) shall be administered by the county sheriff, subject to the appropriation of funds for such purposes by the county legislative body.

(3) No privilege tax shall be levied on litigation in accordance with this subsection (f) on or after July 1, 2020; provided, however, that this subdivision (f)(3) shall not be construed to absolve any person of liability for any litigation tax duly imposed by this subsection (f) prior to July 1, 2020.

(g)(1) In addition to any other tax imposed pursuant to this chapter, by resolution adopted by a two-thirds (2/3) majority vote of the county legislative body, a privilege tax may be levied on litigation in all criminal court, fourth circuit court, and general sessions court-criminal division cases, in any county having a population of not less than four hundred thirty-two thousand two hundred (432,200) nor more than four hundred thirty-two thousand three hundred (432,300), according to the 2010 federal census or any subsequent federal census, in an amount not to exceed five dollars ($5.00).

(2) Notwithstanding the apportionment provisions of § 67-4-606, any revenue collected pursuant to this subsection (g) shall be retained by the clerk, with the proceeds to be used exclusively by the clerk of the fourth circuit court.

(h) Notwithstanding the apportionment provisions of § 67-4-606 or this section, upon the adoption of a resolution by a two-thirds (⅔) majority vote of a county legislative body, any amounts collected pursuant to this section may be used by the county legislative body for substance abuse prevention purposes in addition to other purposes identified by this section.

(i) Notwithstanding any law to the contrary, any county having a population of not less than two hundred sixty-two thousand six hundred (262,600) nor more than two hundred sixty-two thousand seven hundred (262,700), according to the 2010 federal census or any subsequent federal census, may, upon the adoption of a resolution by two-thirds (2/3) majority vote of the county legislative body, levy an additional privilege tax on litigation in all civil and criminal cases in an amount not to exceed fifty dollars ($50.00) per case, to be used for jail construction and maintenance, workhouse construction and maintenance, juvenile detention center construction and maintenance, or courthouse construction and maintenance, or to retire debt, including principal and interest and related expenses, on such jail, workhouse, juvenile detention center, and courthouse construction and maintenance projects.

(j) Notwithstanding any law to the contrary, any county having a population of not less than eighty-nine thousand eight hundred (89,800) nor more than

eighty-nine thousand nine hundred (89,900) according to the 2010 federal census or any subsequent federal census, may, upon the adoption of a resolution by two-thirds (2/3) majority vote of the county legislative body, levy an additional privilege tax on litigation in all civil and criminal cases in an amount not to exceed one hundred dollars ($100.00) per case, to be used for the construction of a building, separate from the courthouse, that would house legal proceedings and offices directly involved with the court system, and to renovate the county courthouse, or to retire debt, including principal and interest and related expenses, on such building and courthouse construction and maintenance projects.

67-4-723. License — Issuance and renewal — Duty to exhibit license — Use of collected funds.

(a)(1) Upon receipt of the prescribed application and payment of fifteen dollars ($15.00), together with any other information reasonably required, it shall be the duty of the county clerk, in the case of taxpayers located within the county, and the appropriate city official, in the case of taxpayers located within the incorporated municipality, to issue a license to the taxpayer. If a taxpayer has more than one (1) location within the county or incorporated municipality, a separate license, including payment of the fifteen-dollar fee required by this subsection (a), shall be required for each location. In the case of the county clerk, three dollars ($3.00) of the fifteen-dollar fee shall be earmarked for computer hardware purchases or replacement, but may be used for other usual and necessary computer-related expenses at the discretion of the county clerk. The earmarked amount shall be preserved for these purposes and shall not revert to the general fund at the end of a budget year if unexpended.

(2) In addition to the initial license issued under subdivision (a)(1), the issuing official shall renew the license upon notification from the department that the taxpayer has filed the return required under § 67-4-715 and remitted the amount shown to be due on the return. There shall be no fee charged for the renewal of a license issued under this subsection (a).

(3) Each license issued under this subsection (a) shall expire thirty (30) days after the date that the taxpayer's return is due under § 67-4-715.

(4) No person shall conduct business in this state without first acquiring the license required by this subsection (a).

(5) Notwithstanding subdivisions (a)(1) and (2), any county or municipality may, but shall not be required to, enter an agreement with the commissioner pursuant to which the department will issue or renew, or both, the license required by this subsection (a) on behalf of the county or municipality.

(6) Persons described in § 67-4-708(5) and taxable under § 67-4-709(5) shall not be required to obtain a license under this subsection (a).

(b)(1) Notwithstanding any provision to the contrary, any incorporated municipality that imposes the tax authorized by § 67-4-705(a) and every county shall issue a minimal activity license to any person that is exempt from taxation and licensing pursuant to § 67-4-712(d), provided that such person has sales of more than three thousand dollars ($3,000) but less than ten thousand dollars ($10,000) per year within the jurisdiction. Such license shall be issued upon receipt of an application, to be prescribed by the

department, and payment of fifteen dollars ($15.00). The application shall require the applicant to attest that the applicant is engaged in business within such county or incorporated municipality but has sales of less than ten thousand dollars ($10,000) per year within such county or incorporated municipality. No person with sales of more than three thousand dollars ($3,000) but less than ten thousand dollars ($10,000) per year within such county or incorporated municipality shall conduct business in such county or incorporated municipality without first acquiring the license required by this subsection (b). If a person has more than one (1) location within the county or incorporated municipality, a separate minimal activity license, including payment of the fifteen-dollar fee required by this subsection (b), shall be required for each location. Every county or incorporated municipality that issues minimal activity licenses pursuant to this subsection (b) shall provide the department, if requested, with the identity of each licensee and any other information reasonably required by the department to verify the licensee's compliance with this part.

(2) Persons with sales of three thousand dollars ($3,000) or less per year in any incorporated municipality or county may, but do not have to, apply for a minimal activity license, as provided for in this subsection (b).

(3) Each minimal activity license issued under this subsection (b) shall expire thirty (30) days after the dates set forth in § 67-4-715 as if the person were filing a return.

(4) This subsection (b) shall not operate to exempt any person from filing a tax return pursuant to § 67-4-715 in the event that the person's sales exceed ten thousand dollars ($10,000) during their tax year as otherwise provided in § 67-4-715.

(5) Notwithstanding subdivision (b)(1), any county or municipality may, but shall not be required to, enter an agreement with the commissioner pursuant to which the department will issue or renew, or both, the license required by this subsection (b) on behalf of the county or municipality.

(c) It shall be the duty of each taxpayer that receives a license under this section to exhibit such license.

(d) An amount equal to three dollars ($3.00) per minimal activity license shall be retained by the county clerk or city official that issues such license. In the case of a county clerk, such amount shall be earmarked for computer hardware purchases or replacement but may be used for other usual and necessary computer-related expenses at the discretion of the county clerk. The amount shall be preserved for these purposes and shall not revert to the general fund at the end of a budget year if unexpended. Notwithstanding § 8-21-701, no additional fee shall be charged to any person for the filing of the application or issuance of the license provided for in this section.

(e) Licenses already in effect as of January 1, 2014, continue to be valid until their original renewal date.

67-4-1201. Part definitions.

As used in this part:

(1) "Adult performance business" means a business that:

(A) Is an adult cabaret or other adult-oriented establishment, as defined in § 7-51-1102 or § 7-51-1401;

(B) Provides live nude entertainment or live nude performances for an

audience of two (2) or more individuals; and

(C) Permits the consumption of beer, wine, liquor, or other alcoholic beverages on the premises;

(2) "Department" means the department of revenue; and

(3) "Nude" means:

(A) Entirely unclothed; or

(B) Clothed in a manner that exposes to public view, at any time, the bare female breast below a point immediately above the top of the areola, human genitals, pubic region, or buttocks, even if partially covered by opaque material or completely covered by translucent material, including swim suits, lingerie, or latex covering.

67-4-1202. Entry tax authorized for customers admitted to adult performance business. [Effective until July 1, 2021.]

(a) A two-dollar privilege tax, for state purposes only, is imposed for each entry by each customer admitted to an adult performance business. This tax is in addition to all other taxes imposed on the business.

(b) Each adult performance business shall record daily in the manner required by the department the number of customers admitted to the business. The business shall maintain the records for the period required by the department and make the records available for inspection and audit on request by the department.

(c) This section does not require an adult performance business to impose a tax on a customer of the business. A business has discretion to determine the manner in which the business derives the money required to pay the tax imposed under this section.

(d) All revenue collected from the tax imposed by this section shall be allocated to the general fund. It is the intent of the general assembly that an amount equal to the revenue collected from the tax be allocated to programs for victims of sex trafficking, subject to inclusion in the general appropriations act.

(e) This section is repealed on July 1, 2021, and no privilege tax shall be levied under this section on or after that date. This subsection (e) does not absolve any taxpayer of liability for any tax levied under this section prior to July 1, 2021.

67-4-1425. Limitations on levy of tax.

(a) After May 12, 1988, any private act that authorizes a city or county to levy a tax on the privilege of occupancy of a hotel shall limit the application of such tax as follows:

(1) A city shall only levy such tax on occupancy of hotels located within its municipal boundaries;

(2) A city shall not be authorized to levy such tax on occupancy of hotels if the county in which such city is located has levied such tax prior to the adoption of the tax by the city; and

(3) A county shall only levy such tax on occupancy of hotels located within its boundaries but outside the boundaries of any municipality that has levied a tax on such occupancy prior to the adoption of such tax by the county.

(b) This section shall be applied prospectively only and all private acts levying taxes on the privilege of occupancy of hotels enacted prior to May 12, 1988, shall remain in full force and effect. For the purposes of this section,

"enacted" means passed by both houses of the general assembly and signed by the governor and approved in accordance with the Constitution of Tennessee, article XI, § 9.

(c) This section does not apply in any county, excluding any county with a metropolitan form of government, that:

(1) Contains or borders a county that contains an airport designated as a regular commercial service airport in the international civil aviation organization (ICAO) regional air navigation plan; and

(2) Contains a government-owned convention center of at least fifty thousand square feet (50,000 sq. ft.) with an attached, adjoining, or adjacent hotel or motel facility; or

(3) Contains an airport with regularly scheduled commercial passenger service, and the creating municipality of the metropolitan airport authority for the airport is not located within such county. The tax levied on occupancy of hotels by cities located within such a county may only be used for tourism as defined by § 7-4-101;

provided, however, that a municipality located in any county to which this subsection (c) applies shall not be authorized to levy a privilege tax upon the privilege of occupancy in any hotel of each transient in an amount exceeding five percent (5%) of the consideration charged by the operator; provided, further, that, if a municipality located in such county is incorporated under the general law, then such municipality is authorized to levy a privilege tax by ordinance adopted by a two-thirds (⅔) vote of its governing body upon the privilege of occupancy in any hotel of each transient in an amount not to exceed five percent (5%) of the consideration charged by the operator. Such ordinance shall set forth the manner of collection and administration of such privilege tax.

(d) This section shall not apply in any county having a population of not less than eighty thousand (80,000) nor more than eighty-three thousand (83,000), in any county having a population of not less than thirty-five thousand fifty (35,050) nor more than thirty-five thousand seventy (35,070), nor in any county having a population of not less than one hundred eighteen thousand four hundred (118,400) nor more than one hundred eighteen thousand seven hundred (118,700), according to the 1990 federal census or any subsequent federal census.

(e) This section does not apply to any city that has constructed a qualifying project or projects under the Convention Center and Tourism Development Financing Act of 1998, compiled in title 7, chapter 88. Further, § 67-4-503 shall not be applicable to such cities as it relates to the authority to levy an occupancy tax.

(f) This section shall not apply in any county having a population of not less than twenty-five thousand five hundred seventy-five (25,575) nor more than twenty-five thousand eight hundred fifty (25,850), according to the 2000 federal census or any subsequent federal census.

(g) This section shall not apply in any municipality that is located within the boundaries of all of the following three (3) counties: a county having a population of not less than seventy-one thousand three hundred (71,300) nor more than seventy-one thousand four hundred (71,400), a county having a population of not less than nineteen thousand five hundred (19,500) nor more than nineteen thousand seven hundred seventy-five (19,775), and a county having a population of not less than fifty-one thousand nine hundred (51,900)

nor more than fifty-two thousand (52,000), all according to the 2000 federal census or any subsequent federal census; provided, that the municipality is authorized to levy a privilege tax by ordinance adopted by a two-thirds (⅔) vote of its governing body upon the privilege of occupancy in any hotel located within the municipality of each transient in an amount not to exceed five percent (5%) of the consideration charged by the operator. The ordinance shall set forth the manner of collection and administration of the privilege tax.

(h) This section shall not apply in any municipality having a population of not less than five thousand two hundred (5,200) nor more than five thousand three hundred (5,300), according to the 2000 federal census or any subsequent federal census, that is located within a county having a population of not less than fifty-one thousand nine hundred (51,900) nor more than fifty-two thousand (52,000), according to the 2000 federal census or any subsequent federal census; provided, that the municipality is authorized to levy a privilege tax by ordinance adopted by a two-thirds (⅔) vote of its governing body upon the privilege of occupancy in any hotel located within the municipality of each transient in an amount not to exceed five percent (5%) of the consideration charged by the operator. The ordinance shall set forth the manner of collection and administration of the privilege tax.

(i) This section shall not apply in any municipality having a population of not less than seven thousand three hundred fifty (7,350) nor more than seven thousand four hundred and ten (7,410), according to the 2000 federal census of population or any subsequent federal census located within a county having a population of not less than twenty-five thousand four hundred and fifty (24,450) nor more than twenty-five thousand five hundred and fifty (25,550), according to the 2000 federal census of population or any subsequent federal census. Any such municipality shall be authorized to levy a privilege tax by ordinance adopted by a two-thirds (⅔) vote of its governing body upon the privilege of occupancy in any hotel located within the municipality of each transient in an amount of the consideration charged by the operator as set by ordinance of the governing body. All proceeds received by the municipality from such tax shall be dedicated solely for tourism development. The ordinance shall further set forth the manner of collection and administration of the privilege tax.

(j) This section shall not apply in any city having a population of not less than six thousand nine hundred (6,900) nor more than seven thousand (7,000), according to the 2010 federal census or any subsequent federal census, that is located within a county having a population of not less than thirty-five thousand six hundred (35,600) nor more than thirty-five thousand seven hundred (35,700), according to the 2010 federal census or any subsequent federal census; provided, that the city is authorized to levy a privilege tax by ordinance adopted by a two-thirds (⅔) vote of its governing body upon the privilege of occupancy in any hotel located within the city of each transient in an amount not to exceed five percent (5%) of the consideration charged by the operator. All proceeds received by the city from such tax shall be dedicated solely for tourism development. The ordinance shall set forth the manner of collection and administration of the privilege tax.

(k) This section shall not apply in any city having a population of not less than thirty-four thousand six hundred (34,600) nor more than thirty-four thousand seven hundred (34,700), according to the 2010 federal census or any subsequent federal census, that is located within any county having a

population of not less than eighty thousand nine hundred (80,900) nor more than eighty-one thousand (81,000), according to the 2010 federal census or any subsequent federal census; provided, that the city is authorized, after notice and a public hearing, to levy a privilege tax by ordinance adopted by a two-thirds (⅔) vote of its governing body upon the privilege of occupancy in any hotel located within the city of each transient in an amount not to exceed five percent (5%) of the consideration charged by the operator. The public shall have not less than thirty (30) days to comment on the levying of the tax after receiving notice from the city and before the public hearing. All proceeds received by the city from the tax shall be dedicated solely for tourism development in Maury County. The ordinance shall set forth the manner of collection and administration of the privilege tax.

(*l*) This section shall not apply in any city having a population of not less than six thousand eight hundred twenty (6,820) nor more than six thousand eight hundred thirty (6,830), according to the 2010 federal census or any subsequent federal census, that is located within any county having a population of not less than thirty-three thousand three hundred (33,300) nor more than thirty-three thousand four hundred (33,400), according to the 2010 federal census or any subsequent federal census; provided, that the city is authorized, after notice and public hearing, to levy a privilege tax by ordinance adopted by a two-thirds (⅔) vote of its governing body upon the privilege of occupancy in any hotel located within the city of each transient in an amount not to exceed five percent (5%) of the consideration charged by the operator. The public shall have not less than thirty (30) days to comment on the levying of the tax after receiving notice from the city and before the public hearing. All proceeds received by the city from the tax shall be used for tourism development purposes. The ordinance shall set forth the manner of collection and administration of the privilege tax.

(m) This section shall not apply in any county having a population of not less than thirteen thousand seven hundred (13,700) nor more than thirteen thousand seven hundred fifty (13,750), according to the 2010 federal census or any subsequent federal census; provided, that the county is authorized to levy a privilege tax by resolution adopted by a two-thirds (⅔) vote of its governing body upon the privilege of occupancy in any hotel of each transient in an amount not to exceed five percent (5%) of the consideration charged by the operator. The resolution shall set forth the manner of collection and administration of the privilege tax.

(n) Notwithstanding this part to the contrary, by ordinance adopted by a two-thirds (⅔) vote of its legislative body, any municipality having a population of not less than sixty-three thousand (63,000) nor more than sixty-three thousand five hundred (63,500), according to the 2010 federal census or any subsequent federal census, is authorized to adjust the rate of the municipality's privilege tax upon the privilege of occupancy in any hotel located within the municipality of each transient; provided, however, any adjustment shall be made one (1) time only and shall not exceed two percent (2%) of the consideration charged to the transient by the operator. Any proceeds received by the municipality from any adjustment in the rate shall be used solely for tourism.

(o) This section shall not apply in any city having a population of not less than twenty-nine thousand thirty (29,030) nor more than twenty-nine thousand forty (29,040), which is located within any county having a population of

not less than one hundred eighty-three thousand one hundred (183,100) nor more than one hundred eighty-three thousand two hundred (183,200), or which is located within any county having a population of not less than eighty thousand nine hundred (80,900) nor more than eighty-one thousand (81,000), according to the 2010 federal census or any subsequent federal census; provided, that the city is authorized to levy a privilege tax by ordinance adopted by a two-thirds (⅔) vote of its governing body upon the privilege of occupancy in any hotel located within the city of each transient in an amount not to exceed three percent (3%) of the consideration charged by the operator. The proceeds from such tax shall be deposited in a special revenue fund, separate from the general fund, and used solely for tourism development purposes. The ordinance shall set forth the manner of collection and administration of the privilege tax.

(p) This section shall not apply in any city having a population of not less than two thousand eight hundred (2,800) nor more than three thousand (3,000) that is located within any county having a population of not less than fifty-one thousand four hundred (51,400) nor more than fifty-one thousand five hundred (51,500), according to the 2010 federal census or any subsequent federal census; provided, that the city is authorized to levy a privilege tax by ordinance adopted by a two-thirds (⅔) vote of its governing body upon the privilege of occupancy in any hotel located within the city of each transient in an amount not to exceed two percent (2%) of the consideration charged by the operator. All proceeds received by the city from the tax shall be used solely to promote tourism in the city and for no other purpose. The ordinance shall set forth the manner of collection and administration of the privilege tax.

(q) This section shall not apply in any city having a population of not less than six thousand four hundred forty (6,440) nor more than six thousand four hundred forty-nine (6,449), located within two counties, one of which having a population of not less than sixty-six thousand two hundred (66,200) nor more than sixty-six thousand three hundred (66,300) and the other having a population of not less than one hundred sixty thousand six hundred (160,600) nor more than one hundred sixty thousand seven hundred (160,700), according to the 2010 federal census or any subsequent federal census; provided, that the city is authorized, after notice and public hearing, to levy a privilege tax by ordinance adopted by a two-thirds (⅔) vote of its governing body upon the privilege of occupancy in any hotel located within the city of each transient in an amount not to exceed two and one-half percent (2.5%) of the consideration charged by the operator. All proceeds received by the city from the tax shall be used solely for tourism development purposes. The ordinance shall set forth the manner of collection and administration of the privilege tax.

(r) This section shall not apply in any city having a population of not less than thirteen thousand six hundred (13,600) nor more than thirteen thousand six hundred nine (13,609), according to the 2010 federal census or any subsequent federal census, that is located within any county having a population of not less than thirty-nine thousand eight hundred (39,800) nor more than thirty-nine thousand nine hundred (39,900), according to the 2010 federal census or any subsequent federal census; provided, that the city is authorized to levy a privilege tax by ordinance adopted by a two-thirds (⅔) vote of its governing body upon the privilege of occupancy in any hotel located within the city of each transient in an amount not to exceed five percent (5%) of the consideration charged by the operator. All proceeds received by the city

from the tax shall be used solely for tourism development purposes. The ordinance shall set forth the manner of collection and administration of the privilege tax.

(s) This section shall not apply in any city having a population of not less than two thousand seven hundred fifty (2,750) nor more than two thousand seven hundred fifty-nine (2,759) that is located within any county having a population of not less than thirty-nine thousand one hundred (39,100) nor more than thirty-nine thousand two hundred (39,200), according to the 2010 federal census or any subsequent federal census; provided, that the city is authorized to levy a privilege tax by ordinance adopted by a two-thirds (⅔) vote of its governing body upon the privilege of occupancy in any hotel located within the city of each transient in an amount not to exceed two and one-half percent (2.5%) of the consideration charged by the operator. All proceeds received by the city from the tax shall be used solely to promote tourism and economic development in the city and for no other purpose. The ordinance shall set forth the manner of collection and administration of the privilege tax.

(t) This section shall not apply in any city that is situated in two (2) or more counties and having a population of not less than eleven thousand four hundred eighty (11,480) nor more than eleven thousand four hundred eighty-nine (11,489), according to the 2010 federal census or any subsequent federal census; provided, that the city is authorized to levy a privilege tax by ordinance adopted by a two-thirds (⅔) vote of its governing body upon the privilege of occupancy in any hotel located within the city of each transient in an amount not to exceed two and one-half percent (2.5%) of the consideration charged by the operator. All proceeds received by the city from such tax shall be dedicated solely for tourism development. The ordinance shall set forth the manner of collection and administration of the privilege tax.

(u) This section does not apply in any city that is situated in two (2) or more counties and having a population of not less than twenty thousand six hundred (20,600) nor more than twenty thousand seven hundred (20,700), according to the 2010 federal census or any subsequent federal census; provided, that the city is authorized to levy a privilege tax by ordinance adopted by a two-thirds (⅔) vote of its governing body upon the privilege of occupancy in any hotel located within the city of each transient in an amount not to exceed four percent (4%) of the consideration charged by the operator. All proceeds received by the city from the tax must be used solely for tourism development. The ordinance must set forth the manner of collection and administration of the privilege tax.

(v) This section shall not apply in any city having a population of not less than four thousand one hundred forty (4,140) nor more than four thousand one hundred forty-nine (4,149) that is located within any county having a population of not less than thirty-nine thousand one hundred (39,100) nor more than thirty-nine thousand two hundred (39,200), according to the 2010 federal census or any subsequent federal census; provided, that the city is authorized to levy a privilege tax by ordinance adopted by a two-thirds (⅔) vote of its governing body upon the privilege of occupancy in any hotel located within the city of each transient in an amount not to exceed five percent (5%) of the consideration charged by the operator. All proceeds received by the city from the tax shall be used solely to promote tourism and economic development in the city and for no other purpose. The ordinance shall set forth the manner of collection and administration of the privilege tax.

(w) This section does not apply to any city having a population of not less

than fifty-one thousand (51,000) nor more than fifty-two thousand (52,000), according to the 2010 federal census or any subsequent federal census, located in a county with a population of not less than one hundred sixty thousand six hundred (160,600) nor more than one hundred sixty thousand seven hundred (160,700), according to the 2010 federal census or any subsequent census; provided, that the city may, after notice and a public hearing, levy a privilege tax by ordinance adopted by a two-thirds (⅔) vote of its governing body upon the privilege of occupancy in any hotel located within the city of each transient in an amount not to exceed two and three-fourths percent (2.75%) of the consideration charged by the operator. All proceeds received by the city from the tax must be used solely for tourism development purposes. The ordinance must set forth the manner of collection and administration of the privilege tax.

(x) This section shall not apply in any city having a population of not less than thirty thousand (30,000) nor more than thirty thousand five hundred (30,500) that is located in a county having a population of not less than one hundred sixty thousand six hundred (160,600) nor more than one hundred sixty thousand seven hundred (160,700), according to the 2010 federal census or any subsequent federal census; provided, that the city is authorized to levy a privilege tax by ordinance adopted by a two-thirds (⅔) vote of its governing body upon the privilege of occupancy in any hotel located within the city of each transient in an amount not to exceed five percent (5%) of the consideration charged by the operator. All proceeds received by the city from such tax shall be dedicated solely for tourism development. The ordinance shall set forth the manner of collection and administration of the privilege tax.

(y) This section shall not apply in any city having a population of not less than ten thousand seven hundred (10,700) nor more than ten thousand eight hundred (10,800) that is located within any county having a population of not less than fifty-six thousand (56,000) nor more than fifty-six thousand one hundred (56,100), according to the 2010 federal census or any subsequent federal census; provided, that the city is authorized to levy a privilege tax by ordinance adopted by a two-thirds (2/3) vote of its governing body upon the privilege of occupancy in any hotel located within the city of each transient in an amount not to exceed two percent (2%) of the consideration charged by the operator. All proceeds received by the city from the tax shall be used solely to promote tourism and economic development in the city and for no other purpose. The ordinance shall set forth the manner of collection and administration of the privilege tax.

67-4-2006. “Net earnings” and “net loss” defined.

(a)(1) For a corporation or any other taxpayer treated as a corporation for federal tax purposes, including any limited liability company treated as a corporation for federal income tax purposes, or any other taxpayer required to file a federal income tax return on a federal form 1120 or any variation of that form, except for a corporation electing S corporation status under 26 U.S.C. §§ 1361-1363, and except for a unitary business as is defined in § 67-4-2004, “net earnings” or “net loss” is defined as federal taxable income or loss before the operating loss deduction and special deductions provided for in 26 U.S.C. §§ 241, 242 [repealed], 243-247, and as adjusted by subsections (b) and (c).

(2) For a corporation electing S corporation status under 26 U.S.C. §§ 1361-1363, “net earnings” means federal taxable income calculated as if

the corporation had not elected S status, taken before the operating loss deduction and special deductions provided for in 26 U.S.C. §§ 241, 242 [repealed], 243-247 and 249-250, and subject to the adjustments in subsections (b) and (c).

(3) For financial institutions that form a unitary business, as defined in § 67-4-2004, "net earnings" or "net loss" is defined as the combined net earnings or net loss, as defined in subdivision (a)(1), for all members of the unitary group, with all dividends, receipts and expenses resulting from transactions between members of the unitary group excluded when computing combined net earnings, and subject to the adjustments in subsections (b) and (c) on a combined basis, even if some of the members would not be subject to taxation under this part, if considered apart from their unitary group.

(4) In the case of a person or taxpayer treated as a partnership for federal tax purposes, or any other person required to file a federal partnership return on a federal form 1065 or any variation of that form, including, but not limited to, limited liability companies, "net earnings" or "net loss" is defined as an amount equal to:

(A) The amount of ordinary income or loss determined under the applicable provisions of the Internal Revenue Code, including, but not limited to, guaranteed payments to partners and capital gains, which additional items are not already included in ordinary income or loss; less

(B) The amount subject to self-employment taxes, without regard to any cap, distributable or paid to each partner or member; provided, that this amount shall not create or increase any net loss; less

(C) The amount contributed to qualified pension or benefit plans, including all plans described in 26 U.S.C. § 401, of any partner or member; provided, however, that this amount shall not create or increase any net loss; and

(D) As adjusted by subsections (b) and (c).

(5)(A) In the case of a person or taxpayer treated as a partnership for federal tax purposes that is directly or indirectly owned by a public REIT, "net earnings" or "net loss" is defined as an amount equal to the amount determined pursuant to subdivision (a)(4), less the amount distributed either directly or indirectly to a public REIT; and

(B) As adjusted by subsections (b) and (c).

(6) Any law to the contrary notwithstanding, a single member limited liability company whose single member is a general partnership and that is disregarded for federal income tax purposes shall be subject to the taxes imposed by this part and part 21 of this chapter. The single member limited liability company's "net earnings" or "net loss" for excise tax purposes shall be determined in the same manner as set forth in subdivision (a)(4).

(7) In the case of a single member limited liability company that is treated as an individual taxpayer for federal income tax purposes, "net earnings" or "net loss" means an amount equal to:

(A) The amount of net profit or loss from all businesses engaged in by the taxpayer, determined by applicable provisions of the Internal Revenue Code as is reported on federal form 1040 or any variation of that form, and appropriate schedules, including any amount subject to self employment tax, without regard to any cap, and including the amount of any gains or losses from the sale of assets held or used in the business; less

(B) The amount subject to self-employment taxes; provided, that this amount shall not create or increase any net loss;

(C) As adjusted by subsections (b) and (c).

(8) In the case of a business trust, or any other person doing business in Tennessee and not covered in subdivisions (a)(1)-(4), "net earnings" or "net loss" is defined as taxable income or loss determined under applicable provisions of the Internal Revenue Code, excluding any net operating loss deduction or special deductions similar to those provided for in 26 U.S.C. §§ 241, 243-247 and 249, as adjusted by subsections (b) and (c).

(9) In the case of a captive REIT affiliated group, "net earnings" or "net loss" is defined as the combined net earnings or net loss, as defined in subdivision (a)(1), for all members of the affiliated group, with all dividends, receipts, and expenses resulting from transactions between members of the affiliated group excluded when computing combined net earnings, and subject to the adjustments in subsections (b) and (c) on a combined basis, even if some of the members would not be subject to taxation under this part if considered apart from the affiliated group.

(10) Effective for tax years beginning on or after January 1, 2020, for purposes of computing "net earnings" or "net loss" under this subsection (a), Section 163(j) of the Internal Revenue Code of 1986, as amended, shall be applied as it existed and applied immediately before the enactment of the Tax Cuts and Jobs Act of 2017, Pub. L. No. 115-97.

(b)(1) There shall be added to a taxpayer's net earnings or net losses:

(A) Excise tax imposed by this state to the extent deducted in determining net earnings;

(B) Interest income from obligations defined in 26 U.S.C. § 103(a), reduced by allowable amortization, including any interest expense disallowed for federal purposes pursuant to 26 U.S.C. §§ 265 and 291;

(C) Any deduction made pursuant to 26 U.S.C. §§ 611-614, 615 [repealed], 616 and 617, to the extent the deduction, when added with similar deductions in prior years, exceeds the cost of the property;

(D) The charitable contributions deduction claimed under 26 U.S.C. § 170;

(E) Any capital loss carrybacks or carryovers, arising in the course of a trade or business and deducted pursuant to 26 U.S.C. § 1212(a);

(F) Any gross premiums tax deducted in determining net earnings, but taken as a credit against the excise tax under § 67-4-2009(1);

(G) Any expense or depreciation, permitted as a deduction in computing federal taxable income solely as a result of lease characterizations permitted under § 168 of the Economic Recovery Tax Act of 1981 that would not have been permitted in the absence of such act; it being the legislative intent that excise tax revenue not be reduced due to lease characterizations made for the purpose of transferring investment tax credits and depreciation allowances from one business entity to another;

(H) Any depreciation that the taxpayer deducted in computing its federal taxable income in excess of that which the taxpayer could have deducted in computing such income, if the taxpayer had computed its depreciation under § 168 of the Internal Revenue Code as it existed and applied immediately prior to the passage of title 1, § 101, of the Job Creation and Worker Assistance Act of 2002;

(I) Any gain not already included in the taxpayer's net earnings or loss on the sale of an asset distributed by the taxpayer to an entity or

individual not otherwise subject to the tax imposed by this part, when such asset is sold within twelve (12) months of the date of distribution. Thus, in such a case, the gain for excise tax purposes is recognized by the taxpayer making the asset distribution rather than the seller. However, if the taxpayer making the asset distribution ceases to exist prior to the sale, the gain shall be reported and tax paid by the seller in accordance with § 67-4-2007(f);

(J) Any net loss or any item of expense or loss that meets all of the following criteria:

(i) Is included in the determination of the taxpayer's net earnings or loss;

(ii) Is from a pass-through entity that is subject to and files a return for the tax imposed by this part; and

(iii) Is allocated to a partner, shareholder, beneficiary or other owner of such pass-through entity;

(K) Any otherwise deductible intangible expense paid, accrued or incurred in connection with a transaction with one or more affiliates;

(L) Any deduction made pursuant to 26 U.S.C. § 199;

(M) In the case of a corporation that has elected S corporation status under 26 U.S.C. §§ 1361-1363, any gain that is not included in net earnings or loss and that is attributable to an election under 26 U.S.C. § 338(h)(10);

(N) Any amount in excess of reasonable rent that is paid, accrued or incurred for the rental, leasing or comparable use of industrial and commercial property owned by an affiliate, whether or not the affiliate is subject to the tax imposed by this part. For purposes of this subdivision (b)(1)(N), "industrial and commercial property" has the same meaning as in § 67-5-501 and "reasonable rent" means rent that does not exceed two percent (2%) per month of the appraised value of the property under chapter 5 of this title. When any person fails to make the adjustment to net earnings or net losses required by this subdivision (b)(1)(N) and the failure is determined by the commissioner to be due to negligence, there shall be imposed a penalty equal to fifty percent (50%) of the amount of the adjustment required by this subdivision (b)(1)(N). The commissioner is authorized to waive the penalty, in whole or in part, for good and reasonable cause under § 67-1-803. This subdivision (b)(1)(N) shall not apply to "commercial and industrial tangible personal property" as defined in § 67-5-501; and

(O) Any deduction by a captive REIT for dividends paid, as defined under 26 U.S.C. § 561, that is allowed and taken under 26 U.S.C. § 857(b)(2)(B); provided, however, that this subdivision (b)(1)(O) shall not apply to a captive REIT that is owned, directly or indirectly, by a bank, a bank holding company, or a public REIT.

(2) There shall be subtracted from the net earnings and losses:

(A) Dividends earned by a taxpayer who owns eighty percent (80%) or more of the outstanding capital stock of a corporation;

(B) Any amount included in federal taxable income but not taxable under the laws of this state;

(C) A portion of the gain or loss of the sale or other disposition of property having a higher basis for state excise tax purposes than federal income tax purposes measured by the difference in the state basis and the

federal basis; provided, however, that there shall be no adjustment under this subdivision (b)(2)(C) as a result of the taxpayer not having been subject to the tax imposed by this part during any portion of the period during which the taxpayer took depreciation expense on the property for federal income tax purposes;

(D) The actual charitable contributions made during the tax year by a taxpayer;

(E) Any capital losses incurred during the fiscal year, arising in the course of a trade or business, and not deductible under 26 U.S.C. § 1211(a);

(F) Any expense, other than income taxes, not deducted in determining federal taxable income for which a credit against the federal income tax is allowable;

(G) Any amount included in federal taxable income solely as a result of lease characterizations permitted under § 168 of the Economic Recovery Tax Act of 1981, codified in 26 U.S.C. § 168, that would not have been permitted in the absence of such act;

(H) Any amount of depreciation or other expense that the taxpayer could have deducted in computing federal taxable income had it not made the election to enter into a lease transaction permitted under § 168 of the Economic Recovery Tax Act of 1981 that would not have been permitted in the absence of such act;

(I) Any depreciation in excess of that which the taxpayer deducted in computing its federal taxable income that could have been deducted in computing such income if the taxpayer had computed its depreciation under § 168 of the Internal Revenue Code as it existed and applied immediately prior to the passage of title 1, § 101, of the Job Creation and Worker Assistance Act of 2002;

(J) An amount equal to the difference, if any, between the reserve for bad debts allowed under 26 U.S.C. §§ 585 and 593, as such sections existed on December 31, 1986, and such reserve as it may have been modified subsequently;

(K) Any loss on the sale of an asset not already included in the taxpayer's net earnings or loss distributed by a taxpayer treated as a partnership for federal tax purposes, by an S corporation or by a business trust, to a member, partner, shareholder or certificate holder, when such asset is sold within twelve (12) months of the date of distribution. Thus, in such a case, the loss for excise tax purposes is recognized by the entity making the asset distribution rather than by the seller;

(L) Any net gain or any item of income that meets all of the following criteria:

(i) Is included in the determination of the taxpayer's net earnings or loss;

(ii) Is from a pass-through entity that is subject to and files a return for the tax imposed by this part; and

(iii) Is allocated to a partner, shareholder, beneficiary or other owner of such pass-through entity;

(M)(i) Seventy-five percent (75%) of the value of charitable donations, including those otherwise deductible under any other provision of this part, that are made to a qualified public school support organization and meet all of the following requirements:

(a) For purposes of this subdivision (b)(2)(M), "qualified public school support organization" means an entity, other than a natural person, that is registered with the department for sales and use tax purposes pursuant to chapter 6 of this title and whose sole purpose is to promote and enhance Tennessee public schools;

(b) The deduction provided by this subdivision (b)(2)(M) shall apply only in the tax year in which the qualified public school support organization certifies to the taxpayer making the donation that it has spent the donation to purchase goods or services subject to the tax imposed by chapter 6 of this title and upon which such tax has actually been paid. The taxpayer making the donation must maintain a copy of such certification to establish entitlement to the deduction;

(c) Donations pursuant to this subdivision (b)(2)(M) must be monetary donations and not donations of goods or services;

(d) The taxpayer making the donation shall not designate a specific child as the beneficiary of the donation;

(e) Qualified public school support organizations receiving such donations must maintain adequate records to prove that the requirements of this subdivision (b)(2)(M) have been met, including proof in the form of invoices or other documentation to establish that the donation was used to purchase goods or services subject to the tax imposed by chapter 6 of this title and that such tax was actually paid; and

(f) If the qualified public school support organization falsely certifies to the taxpayer making the donation that the donation has been spent and tax paid in the manner required by this subdivision (b)(2)(M), the qualified public school support organization shall be liable for the tax imposed by chapter 6 of this title, including applicable penalties and interest, as if the donation had been spent on items subject to that tax;

(ii) The department of revenue is authorized to share with the department of education information necessary to effectuate the purposes of subdivision (b)(2)(M)(i). The department of education shall be bound by restrictions on disclosure of such information otherwise applicable to the department of revenue;

(iii) The commissioner of revenue and the commissioner of education are authorized to promulgate rules and regulations to effectuate the purposes of this subdivision (b)(2)(M). All such rules and regulations shall be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5;

(N) Any intangible expense paid, accrued, or incurred in connection with a transaction with one (1) or more affiliates, if the intangible expense has been disclosed in accordance with subdivision (d)(1) and either of the following conditions are met:

(i) The affiliate to whom the expense has been paid, accrued, or incurred is registered for and paying the tax imposed by this part; or

(ii) The expense was paid, accrued, or incurred to an affiliate in a foreign nation that is a signatory to a comprehensive income tax treaty with the United States or to an affiliate that is otherwise not required to be registered for or to pay the tax imposed by this part;

(O) Any intangible income included in the computation of a taxpayer's net earnings that is accrued or earned in connection with a transaction

with one (1) or more affiliates to the extent that the corresponding intangible expense is included in the affiliate's Tennessee net earnings or net losses and is not deducted by the affiliate under subdivision (b)(2)(N);

(P)(i) Seventy-five percent (75%) of the value of charitable donations, including those otherwise deductible under any other provision of this part, that are made to nonprofit corporations, associations and organizations that are exempt from federal income taxation under § 501(c)(3) of the Internal Revenue Code of 1986, codified in 26 U.S.C. § 501(c)(3), to not-for-profit civic leagues or organizations that are exempt from federal income taxation under § 501(c)(4) of the Internal Revenue Code of 1986, codified in 26 U.S.C. § 501(c)(4), and to associations and organizations that are exempt from federal income taxation under § 501(c)(5) of the Internal Revenue Code of 1986, codified in 26 U.S.C. § 501(c)(5), and meet all of the requirements of this subdivision (b)(2)(P);

(ii) The deduction provided by this subdivision (b)(2)(P) shall apply only in the tax year in which the qualified nonprofit corporation, association or organization certifies to the taxpayer making the donation that it has spent the donation to purchase goods or services subject to the tax imposed by chapter 6 of this title and upon which such tax has actually been paid. The taxpayer making the donation must maintain a copy of such certification to establish entitlement to the deduction;

(iii) Donations pursuant to this subdivision (b)(2)(P) must be monetary donations and not donations of goods and services;

(iv) The taxpayer making the donation shall not designate a specific purpose for the donation;

(v) Qualified nonprofit corporations, associations and organizations receiving such donations must maintain adequate records to prove that the requirements of this subdivision (b)(2)(P) have been met, including proof in the form of invoices or other documentation to establish that the donation was used to purchase goods or services subject to the tax imposed by chapter 6 of this title and that such tax was actually paid;

(vi) If the qualified nonprofit corporation, association or organization falsely certifies to the taxpayer making the donation that the donation has been spent and tax paid in the manner required by this subdivision (b)(2)(P), the qualified nonprofit corporation, association or organization shall be liable for the tax imposed by chapter 6 of this title, including applicable penalties and interest, as if the donation had been spent on items subject to the tax;

(Q) In the case of a corporation that has elected S corporation status under 26 U.S.C. §§ 1361-1363, any loss that is not included in net earnings or loss and that is attributable to an election under 26 U.S.C. § 338(h)(10);

(R) Any amount in excess of reasonable rent that is received or accrued for the rental, leasing, or comparable use of industrial and commercial property rented, leased, or otherwise provided to an affiliate; provided, however, that this subdivision (b)(2)(R) shall only apply to the extent the corresponding expense has been added to the net earnings or net losses of the affiliate in accordance with subdivision (b)(1)(N). For purposes of this subdivision (b)(2)(R), "industrial and commercial property" and "reasonable rent" shall have the same meaning as in subdivision (b)(1)(N); and

(S) Any amount that the taxpayer would have excluded from federal taxable income as a result of applying § 118 of the Internal Revenue Code as it existed and applied immediately before enactment of the Tax Cuts and Jobs Act of 2017, Pub. L. No. 115-97.

(c) A taxpayer's net earnings, or net loss, shall be determined under subsections (a) and (b) and shall be subject to further adjustments provided by this subsection (c). Taxpayers doing business both in and outside of Tennessee so as to be entitled to apportionment shall apportion such net earnings or net loss using the appropriate apportionment formula provided in this part. The taxpayer shall then deduct any loss carryovers, computed in accordance with this subsection (c), from its net earnings so determined.

(1) In the case of taxpayers that were subject to the excise tax under prior law, any net qualified operating loss incurred for fiscal years ending on or after January 15, 1984, may be deducted. In the case of all other taxpayers, any net operating loss incurred for fiscal years ending on or after July 1, 1999, may be deducted. For this purpose, "net operating loss" is defined as the excess of allowable deductions over total income allocable to this state for the year of the loss. Qualified net operating losses may be carried forward and deducted in the next succeeding tax year or years in which the taxpayer has net income until fully utilized, but in no case for more than fifteen (15) years after the taxable year in which the net operating loss occurs. For fiscal years ending on or after July 15, 1990, in the case of a unitary business, as defined in § 67-4-2004 the net operating loss incurred in the current year shall be determined on a combined basis as specified in subdivision (a)(3). For tax years ending prior to July 15, 1990, any net operating loss incurred by a member of the unitary group that has been apportioned to Tennessee in a year prior to filing a combined return shall be allowed to the unitary group in succeeding tax years until fully utilized, but in no case more than seven (7) years after the taxable year in which the net operating loss occurs.

(2) Except for unitary groups of financial institutions, each taxpayer is considered a separate entity; therefore, in the case of mergers, consolidations, and like transactions, no loss carryovers incurred by the predecessor taxpayer shall be allowed as a deduction from net earnings on the excise tax return filed by the successor taxpayer. With the exception set forth in subdivision (c)(3), a loss carryforward may be taken only by the taxpayer that generated it.

(3) Notwithstanding the provisions contained in subdivision (c)(2), when a taxpayer merges out of existence and into a successor taxpayer that has no income, expenses, assets, liabilities, equity or net worth, any qualified Tennessee loss carryover of the predecessor that merged out of existence shall be available for carryover and deduction from the net earnings of the surviving successor in accordance with this subsection (c).

(4) A unitary group of financial institutions may take any qualified Tennessee loss carryforward that was generated by any group member that is in existence as a member of the group at the end of the group's tax year; provided, that such loss carryover has not previously been taken by the member itself before it joined the group or by another unitary group of financial institutions at the time the financial institution generating the loss was a member of that group; and provided, that the loss carryover shall be subject to the limitations set forth in this subsection (c).

(5) There shall be added to the net loss as determined for excise tax purposes, all nonbusiness earnings, interest and dividends, excluded from net earnings pursuant to this section, and any other income excluded from net earnings pursuant to this section.

(6)(A) Notwithstanding subdivision (c)(1) to the contrary, a taxpayer that qualifies for the job tax credit provided in § 67-4-2109(b)(2)(B)(i) in connection with a required capital investment in excess of one billion dollars ($1,000,000,000) shall be allowed to carry forward and deduct any qualified net operating loss until the loss is fully utilized, and shall not be limited to a carryforward period of fifteen (15) years; provided, that the commissioner of revenue and the commissioner of economic and community development determine that extending the period during which the loss may be utilized is in the best interests of the state. For purposes of this subdivision (c)(6), "best interests of the state" includes, but is not limited to, a determination that the taxpayer made the required capital investment as a result of such action.

(B) Subdivision (c)(6)(A) shall apply only to applications received and approved by the commissioner of revenue and the commissioner of economic and community development on or before January 1, 2011.

(7)(A) Notwithstanding subdivision (c)(1) to the contrary, a taxpayer that qualifies for the job tax credit provided in § 67-4-2109(b)(2)(B)(ii), (b)(2)(B)(iii) or (b)(2)(B)(iv) in connection with a required capital investment in excess of one hundred million dollars ($100,000,000) shall be allowed to carry net operating losses forward beyond the initial fifteen-year period authorized under subdivision (c)(1), if the commissioner of revenue and the commissioner of economic and community development determine that extending the period during which the loss may be carried forward is in the best interest of the state. For purposes of this subdivision (c)(7), "best interests of the state" includes, but is not limited to, a determination that the taxpayer made the required capital investment as a result of such action. The commissioner of revenue and the commissioner of economic and community development shall determine the period during which net operating loss carryforward shall be allowed beyond the initial fifteen-year period.

(B) Subdivision (c)(7)(A) shall apply only to applications received and approved by the commissioner of revenue and the commissioner of economic and community development on or before January 1, 2011.

(8)(A)(i) There shall be added to the net loss as determined for excise tax purposes the amount excluded from federal gross income under 26 U.S.C. § 108(a)(1)(A), (B), or (C) for the taxable year of the discharge.

(ii) There shall be added to any qualified net operating loss as determined for excise tax purposes and carried forward to the year of the discharge the amount excluded from federal gross income under 26 U.S.C. § 108(a)(1)(A), (B), or (C) allocable or apportionable to this state for the taxable year of the discharge.

(B) The adjustments described in subdivision (c)(8)(A) shall be made first in the loss for the taxable year of the discharge and then in the carryforwards to such taxable year in the order of the taxable years from which each such carryforward arose.

(d)(1) Any taxpayer that pays, accrues, or incurs intangible expenses as a result of a transaction with one (1) or more affiliates shall disclose the

intangible expenses on the form as prescribed by the commissioner.

(2) Any taxpayer that pays, accrues, or incurs intangible expenses as a result of a transaction with one (1) or more affiliates and either fails to disclose the intangible expenses or fails to add the expenses to net earnings or net losses in accordance with subdivision (b)(1)(K) shall be subject to a negligence penalty as set forth in § 67-1-804(b)(2).

(e)(1) Any financial institution that receives dividends, directly or indirectly, from one (1) or more captive REITs must disclose the dividends on a form prescribed by the commissioner. If a financial institution fails to make the required disclosure, the deduction allowed under subdivision (b)(2)(A) with respect to any direct or indirect dividends from the captive REIT or REITs shall be disallowed, the taxpayer's net earnings under this section shall be adjusted accordingly, and the taxpayer shall be subject to a negligence penalty as set forth in § 67-1-804(b)(2). If the taxpayer wishes to contest the adjustment, the taxpayer shall have the remedies set forth in chapter 1, part 18 of this title.

(2) For purposes of this subsection (e), "captive REIT" means an entity with an election in effect under § 856(c)(1) of the Internal Revenue Code, codified in 26 U.S.C. § 856(c)(1), in which the financial institution, directly or indirectly, has at least eighty percent (80%) ownership interest by value determined in accordance with generally accepted accounting principles and whose shares are not traded on a national stock exchange.

(f) The amount computed under subsections (a)-(e) shall be the taxpayer's net earnings for purposes of the Tennessee excise tax base to which the tax rate is applied as provided in § 67-4-2007.

67-4-2007. Tax imposed.

(a) All persons, except those having not-for-profit status, doing business in this state and having a substantial nexus in this state shall, without exception other than as provided in this part, pay to the commissioner, annually, an excise tax, in addition to all other taxes, equal to six and one half percent (6½%) of the net earnings for the next preceding fiscal year for business done in this state during that fiscal year. Notwithstanding the fact that a person is not-for-profit, such person shall be subject to excise tax on all of its Tennessee net earnings to the extent such earnings constitute unrelated business taxable income as defined in § 512 of the Internal Revenue Code, codified in 26 U.S.C. § 512, or are otherwise subject to income taxes under Subtitle A of such code. Notwithstanding the fact that a person is otherwise exempted from the excise tax, such person shall be subject to excise tax on all of its Tennessee net earnings that are attributable to any activities unrelated to and outside the scope of the activities that give it an exemption status.

(b) Every such person, now or hereafter doing business in this state, shall, as a recompense for the protection of its local activities and as compensation for the benefits it receives from doing business in Tennessee, pay the tax imposed by this part. A person doing business in Tennessee without incorporating, domesticating, qualifying or otherwise registering in Tennessee, or doing business in Tennessee while its charter, domestication, qualification or other registration is forfeited, revoked or suspended, is not relieved from filing a return and paying the excise tax levied by this part for each tax year that such person does business in Tennessee.

(c) The tax imposed by this part shall apply to taxpayers whose business is

being conducted by a receivership or trusteeship appointed by any court of competent jurisdiction, and shall continue to accrue until such time as the taxpayer has been actually and legally dissolved or withdrawn from this state.

(d) For purposes of the excise tax levied by this part, a business entity shall be classified as a corporation, partnership, or other type business entity, consistent with the way the entity is classified for federal income tax purposes, and subject to tax in accordance with this part. Notwithstanding any law to the contrary, entities that are disregarded for federal income tax purposes, except for limited liability companies whose single member is a corporation, shall not be disregarded for Tennessee excise tax purposes.

(e)(1) Except for unitary groups of financial institutions, captive REIT affiliated groups, and business entities that have been required or permitted to file excise tax returns on a combined, consolidated or separate accounting basis under § 67-4-2014, each taxpayer shall be considered a separate and single business entity for Tennessee excise tax purposes and shall file its Tennessee excise tax return on a separate entity basis reflecting only its own business activities even though it may have filed a consolidated federal income tax return with other members of its unitary group. The federal taxable income computed on a separate entity basis excise tax return and subject to adjustments set forth in § 67-4-2006 shall be the same federal taxable income that would have been computed on the taxpayer's federal return if it had been filed on a separate entity basis rather than a consolidated basis.

(2)(A) Financial institutions subject to tax in this state, that are members of a unitary group, shall file a combined return and pay tax based on the apportioned combined net earnings of the entire unitary group, as defined in § 67-4-2006(a)(3). The members of the group shall designate one (1) member that is subject to tax in this state to file the combined return. Except as provided in subdivision (e)(2)(B), each member subject to tax in this state shall be jointly and severally liable for the tax imposed by this part with regard to the unitary business.

(B) Joint and several liability for the tax imposed by this part with regard to the unitary business shall not apply to any member that is a limited liability company, limited liability partnership, or limited partnership and meets the criteria set forth either in subdivision (e)(2)(B)(i) or (e)(2)(B)(ii):

(i)*(a)* The member was formed and operated for the primary purpose of acquiring, from one (1) or more of its direct or indirect owners, notes, accounts receivable, installment sale contracts, or similar evidences of indebtedness; and

(b) The member has pledged substantially all of its assets as security, directly or indirectly, for third party borrowings or securitized indebtedness acquired by third parties; or

(ii) Substantially all of the member's assets consist of assets described in subdivision (e)(2)(B)(i)(*a*), cash and cash equivalents, third party debt securities, or equity interests in entities satisfying the requirements of subdivision (e)(2)(B)(i).

(C) For the purposes of subdivision (e)(2)(B), the following shall apply:

(i) The requirements of subdivision (e)(2)(B)(i)(*a*) shall be satisfied by the presence of language in the entity's organizational or other governing documents expressly stating that the purpose of the entity is to

acquire, own, manage, protect, conserve and sell or otherwise dispose of assets described in subdivision (e)(2)(B)(i)(*a*), cash and cash equivalents, and third party debt securities; to enter into and perform its obligations under its organizational documents, any documents relating to the acquisition of the assets or any third party borrowing or securitized indebtedness to which the entity is a party; and to engage in activities related or incidental to the purposes in this subdivision (e)(2)(C)(i) and necessary or appropriate for the purposes in this subdivision (e)(2)(C)(i).

(ii) "Substantially all" as set forth in subdivision (e)(2)(B) means at least two thirds (66.67%) of the entity's assets as determined by fair market value.

(3) Persons subject to tax in this state that are members of a captive REIT affiliated group shall file a combined return and pay tax based on the apportioned combined net earnings of the entire captive REIT affiliated group, as defined in § 67-4-2006(a). The members of the group shall designate one (1) member that is subject to tax in this state to file the combined return. Each member subject to tax in this state shall be jointly and severally liable for the tax imposed by this part with regard to the affiliated group.

(f)(1) Any entity or individual not otherwise subject to the tax imposed by this part shall pay to the commissioner an excise tax equal to six and one-half percent (6.5%) of the gain from the sale of any asset if any of the following criteria is met:

(A) The entity or individual received the asset through a distribution from a taxpayer within the twelve-month period immediately prior to the sale and the taxpayer making the asset distribution ceased to exist prior to the sale;

(B) The entity or individual received the asset through a merger, liquidation, or any similar transaction involving a taxpayer subject to the tax imposed by this part during the twelve-month period immediately prior to the sale;

(C) The entity or individual qualified for the exemption provided in § 67-4-2008(a)(9) during the twelve-month period immediately prior to the sale; or

(D) The asset was owned, during the twelve-month period immediately prior to the sale, by an affiliate subject to the tax imposed by this part.

(2) Tax on such gain shall be reported and paid in accordance with § 67-4-2015; provided, however, that such tax shall not apply to any person having not-for-profit status. In no event shall the gain from the sale of such asset be taxed twice as a result of the same transaction.

(3) Any entity or individual who fails to report and pay the tax as required by this subsection (f) shall be subject to a penalty as set forth in § 67-1-804(b)(3).

67-4-2012. Apportionment formula.

(a)(1) Except as otherwise provided in this part, for tax years beginning prior to July 1, 2016, all net earnings shall be apportioned to this state by multiplying the earnings by a fraction, the numerator of which shall be the property factor plus the payroll factor plus twice the receipts factor, and the denominator of the fraction shall be four (4).

(2) Except as otherwise provided in this part, for tax years beginning on or after July 1, 2016, all net earnings shall be apportioned to this state by multiplying the earnings by a fraction, the numerator of which shall be the property factor plus the payroll factor plus three (3) times the receipts factor, and the denominator of the fraction shall be five (5).

(b) The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in this state during the tax period, and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used during the tax period. For this purpose, "property" includes a taxpayer's ownership share of the real or tangible property owned or rented by any general partnership, or entity treated as a general partnership for federal income tax purposes, in which such taxpayer has an ownership interest. A return being filed by a limited liability company that has a general partnership as its single member shall include in its property factor only the real and tangible property owned or used by the limited liability company. "Property" also includes a taxpayer's ownership share of the real or tangible property owned or rented by any limited partnership, subchapter S corporation, limited liability company or other entity treated as a partnership for federal income tax purposes, in which the taxpayer has an ownership interest, directly or indirectly through one (1) or more such entities, and that is not doing business in Tennessee and, therefore, is not subject to Tennessee excise tax. The cost value or rental value of such property shall be determined from the books and records of the entity in which the taxpayer has an interest and such property shall be valued in accordance with subsection (c).

(c)(1) Property owned by the taxpayer is valued at its original cost. Property rented by the taxpayer is valued at eight (8) times the net annual rental rate. Net annual rental rate is the annual rental rate paid by the taxpayer less any annual rental rate received by the taxpayer from subrentals. A lessee's payments to a lessor, or on such lessor's behalf, as part of rent, or in lieu of rent, shall be included as rent in the property factor of the apportionment formula provided by this section. Except with respect to tangible personal property, for purposes of this subsection (c), payments, such as interest, taxes, insurance, repairs or other items, shall be treated as rent paid by the lessee, if they would have been paid by the lessor if the lease contract or other agreement had not specifically provided that they be paid by the lessee.

(2) For purposes of this section, the value of owned or leased mobile or movable property located both inside and outside of the state of Tennessee during a tax period shall be determined on the basis of the total percentage of time such property is inside the state during the tax period; provided, that the value of an automobile or truck assigned to a traveling employee shall be considered in Tennessee, if the employee's compensation is assigned to Tennessee for purposes of the taxpayer's apportionment formula payroll factor, or if such vehicle is licensed in Tennessee.

(d) The average value of property shall be determined by averaging the values at the beginning and ending of the tax period; but the commissioner may require the averaging of monthly values during the tax period, if reasonably required to reflect properly the average value of the taxpayer's property.

(e) The payroll factor is a fraction, the numerator of which is the total amount paid in this state during the tax period by the taxpayer for compen-

sation, and the denominator of which is the total compensation paid everywhere during the tax period. For this purpose, "compensation" includes a taxpayer's ownership share of the compensation of any general partnership, or entity treated as a general partnership for federal income tax purposes, in which such taxpayer has an ownership interest. A return being filed by a limited liability company that has a general partnership as its single member shall include in its payroll factor only the compensation attributed to the limited liability company. "Compensation" also includes a taxpayer's share of any specific compensation of any limited partnership, subchapter S corporation, limited liability company or other entity treated as a partnership for federal income tax purposes, in which the taxpayer has an ownership interest, directly or indirectly through one (1) or more such entities, and which is not doing business in Tennessee and thus is not subject to Tennessee excise tax.

(f) Compensation is paid in this state, if:

(1) The individual's service is performed entirely inside the state;

(2) The individual's service is performed both inside and outside the state, but the service performed outside the state is incidental to the individual's service inside the state; or

(3) Some of the service is performed in the state; and

(A) The base of operations or, if there is no base of operations, the place from which the service is directed or controlled is in the state; or

(B) The base of operations or the place from which the service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in this state.

(g) The receipts factor is a fraction, the numerator of which is the total receipts of the taxpayer in this state during the tax period, and the denominator of which is the total receipts of the taxpayer everywhere during the tax period. For this purpose, "gross receipts" includes a taxpayer's ownership share of the gross receipts of any general partnership, or entity treated as a general partnership for federal income tax purposes, in which such taxpayer has an ownership interest. A return being filed by a limited liability company that has a general partnership as its single member shall include in its receipts factor only the gross receipts attributed to the limited liability company. "Gross receipts" also includes a taxpayer's ownership share of gross receipts of any limited partnership, subchapter S corporation, limited liability company, or other entity treated as a partnership for federal income tax purposes, in which the taxpayer has an ownership interest, directly or indirectly through one (1) or more such entities, and that is not doing business in Tennessee and thus is not subject to Tennessee excise tax.

(h) Sales of tangible personal property are in this state, if:

(1) The property is delivered or shipped to a purchaser, other than the United States government, inside this state regardless of the F.O.B. point or other conditions of the sale; or

(2) The property is shipped from an office, store, warehouse, factory or other place of storage in this state and the purchaser is the United States government.

(i)(1) Sales, other than sales of tangible personal property, are in this state if the taxpayer's market for the sale is in this state. The taxpayer's market for a sale is in this state:

(A) In the case of sale, rental, lease, or license of real property, if and to the extent the property is located in this state;

(B) In the case of rental, lease, or license of tangible personal property, if and to the extent the property is located in this state;

(C) In the case of sale of a service, if and to the extent the service is delivered to a location in this state;

(D) In the case of intangible property:

(i) That is rented, leased, or licensed, if and to the extent the intangible property is used in this state; provided, that intangible property utilized in marketing a good or service to a consumer is considered used in this state if that good or service is purchased by a consumer who is in this state; and

(ii) That is sold, if and to the extent the property is used in this state; provided, that:

(a) A contract right, government license, or similar intangible property that authorizes the holder to conduct a business activity in a specific geographic area is considered used in this state if the geographic area includes all or part of this state;

(b) Receipts from intangible property sales that are contingent on the productivity, use, or disposition of the intangible property shall be treated as receipts from the rental, lease, or licensing of such intangible property under subdivision (i)(1)(D)(i); and

(c) All other receipts from a sale of intangible property shall be excluded from the numerator and denominator of the receipts factor.

(2) If the state or states of assignment under subdivision (i)(1) cannot be determined, the state or states of assignment shall be reasonably approximated.

(3) If the state of assignment cannot be determined under subdivision (i)(1) or reasonably approximated under subdivision (i)(2), such sale shall be excluded from the numerator and denominator of the sales factor.

(4) If the application of this subsection (i) to a tax year results in a lower apportionment factor than under the application of the apportionment method in subsection (i) as it was in effect prior to January 1, 2016, then a taxpayer may annually elect to apply the apportionment method in subsection (i) as in effect prior to January 1, 2016; provided, however, the election must result in a higher apportionment factor for the tax year, and the taxpayer must have net earnings, rather than a net loss, for that tax year as computed under § 67-4-2006.

(j)(1) For any qualified member of a qualified group, total receipts in this state shall equal the receipts from all sales of tangible personal property that are in this state as determined under subsection (h), plus the arithmetical average of the receipts from all sales other than sales of tangible personal property that are in this state as determined under each of the following alternative methods:

(A) All sales that are in this state as determined under subsection (i); and

(B) All sales, other than sales of tangible personal property, where the earnings-producing activity is performed:

(i) In this state; or

(ii) Both in and outside this state and a greater proportion of the earnings-producing activity is performed in this state than in any other state, based on costs of performance.

(2) For purposes of this subsection (j), the following definitions shall

apply:

(A) "Qualified expenditures" means expenditures incurred in transactions with persons who are not members of the qualified group for the following:

(i) Purchasing tangible personal property placed in service in this state by a member of the qualified group; and

(ii) Payroll for employees employed by a member of the qualified group at a facility in this state;

(B) "Qualified group" means an affiliated group that meets both of the following criteria:

(i) One or more members of the group is a qualified member; and

(ii) The members of the group, during the tax period, either:

(a) Incur, in the aggregate, qualified expenditures in an amount greater than one hundred fifty million dollars ($150,000,000); or

(b) Make sales that are subject to the tax imposed by chapter 6 of this title in excess of one hundred fifty million dollars ($150,000,000);

(C) "Qualified member" means a person that is principally engaged in the sale of "telecommunications service," "mobile telecommunications service," "Internet access service," "video programming service," "direct-to-home satellite television programming service," or a combination of such services, as each such term is used or defined in chapter 6 of this title.

(3) The method provided by this subsection (j) for determining the total receipts in this state of a qualified member shall be the only method for determining such receipts under this part.

(k) Notwithstanding any provision of this section to the contrary, any gain on the sale of an asset that is designated as goodwill and is required to be included as Class VII assets pursuant to the reporting requirements of 26 U.S.C. §§ 338(b)(5) and 1060, and associated regulations, shall be excluded from both the numerator and the denominator of the apportionment formula receipts factor.

(*l*)(1) A taxpayer whose principal business in Tennessee is manufacturing may elect to apportion net earnings to this state by multiplying the earnings by a fraction, the numerator of which is the total receipts of the taxpayer in Tennessee during the taxable year and the denominator of which is the total receipts of the taxpayer from any location within or outside of the state during the taxable year.

(2) For purposes of this subsection (*l*), a taxpayer's principal business in Tennessee is manufacturing if more than fifty percent (50%) of the revenue derived from its activities in this state, excluding passive income, is from fabricating or processing tangible personal property for resale and consumption off the premises. For purposes of this subsection (*l*), "passive income" means dividend income, interest income, income derived from the sale of securities, and income derived from the licensing or sale of patents, trademarks, tradenames, copyrights, know-how, or other intellectual property.

(3) To elect the method of apportionment provided in this subsection (*l*), the taxpayer shall notify the department of the election, in writing, on its return for the taxable year to which the election applies.

(4) Once a taxpayer elects the method of apportionment provided in this subsection (*l*), such election shall remain in effect for a minimum of five (5) tax years and thereafter until revoked. The taxpayer may revoke the election after the minimum period by notifying the department of the revocation, in

writing, on its return for the first taxable year to which the revocation applies. A taxpayer that revokes the election shall not be permitted to newly elect the method of apportionment provided in this subsection (*l*) for a period of five (5) tax years, beginning with the tax year in which the taxpayer revoked the previous election.

(m)(1) Notwithstanding any other provision of this part, a financial asset management company may elect to apportion net earnings by multiplying such earnings by a fraction, the numerator of which is the total receipts of the taxpayer in Tennessee during the taxable year as determined under this section and the denominator of which is the total receipts of the taxpayer everywhere during the taxable year.

(2) For the purposes of this subsection (m):

(A)(i) "Financial asset management company" means an entity that is a limited partnership, or is treated as a partnership for federal tax purposes, that is engaged in the business of providing financial asset management services, and either:

(a) Has a class of equity securities registered under Section 12(g) of the Securities Exchange Act of 1934 (15 U.S.C. § 78l(g)) and, as a result, is subject to the public company reporting requirements contained in Section 13(a) of the Securities Exchange Act of 1934 (15 U.S.C. § 78m); or

(b) Is owned by a publicly traded partnership that owns at least twenty-five percent (25%) of the entity and such ownership interest constitutes more than fifty percent (50%) of the total assets of the publicly traded partnership; and

(ii) "Financial asset management company" does not include any type of real estate investment trust as defined in § 67-4-2004;

(B) "Financial asset management services" means the following services when performed with respect to financial investments: managing portfolio assets of others on a fee or commission basis; rendering investment advice, including investment research and analysis; making determinations as to when sales and purchases of investments are to be made; and selling or purchasing of investments;

(C) "Financial investments" means, without limitation, investments in stocks, stock options, bonds, and alternative asset classes (including, but not limited to, real estate, commodities, and other debt obligations); and

(D) "Publicly traded partnership" means an entity that is a limited partnership, or is treated as a partnership for federal tax purposes, that files with the securities and exchange commission and whose shares are regularly traded on a securities exchange that is either registered as a national securities exchange with the securities exchange commission under Section 6 of the Securities Exchange Act of 1934 (15 U.S.C. § 78f), or is a national securities exchange of a foreign country and regulated in a substantially similar manner by a foreign financial regulatory authority.

(3) To elect the method of apportionment provided in this subsection (m), the taxpayer shall notify the department of the election, in writing, on its return for the taxable year to which the election applies.

(4) Once a taxpayer elects the method of apportionment provided in this subsection (m), such election shall remain in effect for a minimum of five (5) tax years and thereafter until revoked. The taxpayer may revoke the election after the minimum period by notifying the department of the revocation, in

writing, on its return for the first taxable year to which the revocation applies. A taxpayer that revokes the election shall not be permitted to newly elect the method of apportionment provided in this subsection (m) for a period of five (5) tax years, beginning with the tax year in which the taxpayer revoked the previous election.

67-4-2015. Filing of returns — Payment of tax — Penalty.

(a) The franchise and excise tax return shall be filed with the commissioner on or before the fifteenth day of the fourth month following the close of the taxpayer's taxable year. The return shall coincide with the accounting period covered by the federal return and the appropriate tax must be paid to the department at the time of filing the return. In the event the return covers a period of less than twelve (12) months, the excise tax shall not be prorated.

(b) Every taxpayer, who has a combined franchise and excise tax liability of five thousand dollars ($5,000) or more, after application of all available franchise and excise tax credits, for both the immediately preceding tax year, annualized if the preceding tax year was for less than twelve (12) months, and the current tax year, shall make four (4) quarterly estimated franchise and excise tax payments for its current tax year. A taxpayer electing to compute its net worth on a consolidated basis shall compute its quarterly estimated franchise and excise tax payments taking into consideration that its net worth will be computed on a consolidated basis. Except as otherwise provided in this section, the minimum amount of each quarterly payment shall be the lesser of:

(1) Twenty-five percent (25%) of the combined franchise and excise tax shown on the tax return for the preceding tax year, annualized if the preceding tax year was for less than twelve (12) months; or

(2) Twenty-five percent (25%) of eighty percent (80%) of the combined franchise and excise tax liability for the current tax year.

(c) The first quarterly payment shall be due on the fifteenth day of the fourth month of the current tax year; the second payment on the fifteenth day of the sixth month; the third payment on the fifteenth day of the ninth month; and the final payment on the fifteenth day of the first month of the next succeeding tax year.

(d) If there is a deficiency or delinquency of any quarterly estimated tax payment required, a penalty in the amount of two percent (2%) for each month of underpayment or part thereof not to exceed a total of twenty-four percent (24%) and interest at the rate prescribed by § 67-1-801 shall be assessed.

(e) The period of underpayment of any required quarterly estimated franchise and excise tax payment shall extend from the date the payment was required to be paid to the earlier of:

(1) The fifteenth day of the fourth month following the close of the taxable year; or

(2) With respect to all or any portion of the underpayment, the date on which all or any portion of the underpayment is paid.

(f) A quarterly payment of estimated franchise and excise tax on any installment date shall be considered a payment of any previous underpayment only to the extent such payment exceeds the amount of the installment payable for that date.

(g)(1) Notwithstanding this section to the contrary, with respect to the excise tax component of its quarterly estimated franchise and excise tax

payments, a taxpayer may elect to calculate that excise tax component in the manner provided by Section 6655(e)(2) of the Internal Revenue Code. For those taxpayers that elect to calculate the excise tax component of their quarterly estimated franchise and excise tax payments in the manner provided by this subsection (g), the franchise tax component of each quarterly estimated payment shall be the lesser of:

(A) Twenty-five percent (25%) of the franchise tax shown on the tax return for the preceding tax year, annualized if the preceding tax year was for less than twelve (12) months; or

(B) Twenty-five percent (25%) of eighty percent (80%) of the franchise tax liability for the current tax year.

(2) A taxpayer electing to calculate its quarterly estimated franchise and excise tax payments under this subsection (g) shall establish the amount of each estimated payment on a form prescribed by the commissioner.

(h)(1)(A) An extension of time of six (6) months in which to file the franchise and excise tax return shall be granted if, on or before the original due date of the return, the extension request is made as required in subdivision (h)(2) and the taxpayer has paid franchise and excise taxes equal to at least the lesser of:

(i) Ninety percent (90%) of the liability for the tax year for which the extension is being requested; or

(ii) One hundred percent (100%) of the tax shown due on the tax return for the preceding tax year, annualized if the preceding tax year was for less than twelve (12) months; provided, however, that, if there was no liability for the preceding tax year, the amount paid shall equal the minimum tax amount provided in § 67-4-2119.

(B) A taxpayer electing to compute its net worth on a consolidated basis shall make its franchise, excise tax extension request and compute the payment thereon taking into consideration that its net worth will be computed on a consolidated basis.

(C) Where the taxes paid on or before the original due date of the return do not equal the amount provided in subdivision (h)(1)(A), or if the return is not filed by the extended due date, penalty as provided by § 67-1-804 and interest as provided by § 67-1-801(a) shall attach as though no extension had been granted.

(2) An extension request shall be made as follows:

(A) If the taxpayer is not required to make a tax payment with its extension request, the taxpayer may use either a form prescribed by the commissioner or a copy of the taxpayer's request for an automatic extension of time to file its federal income tax return for the corresponding tax period. The form shall not be filed on the original due date of the return but, instead, shall be attached to the return filed on or before the extended due date;

(B) If the taxpayer is required to make a tax payment with its extension request and the taxpayer does not file its federal income tax return as a member of a consolidated group, the taxpayer may use either a form prescribed by the commissioner or a copy of the taxpayer's request for an automatic extension of time to file its federal income tax return for the corresponding tax period. The form shall be filed with the tax payment on or before the original due date of the return; and

(C) If the taxpayer is required to make a tax payment with its extension request and the taxpayer files its federal income tax return as a member

of a consolidated group, the taxpayer must use a form prescribed by the commissioner. The form shall be filed with the tax payment on or before the original due date of the return.

(i) Final return status shall apply to the first return that reflects any activity or event giving rise to such status, and shall apply to all subsequent returns filed by the taxpayer. The taxpayer shall file a return for each tax period during which the taxpayer is in final return status. This requirement shall include returns of taxpayers with any remaining assets, activity, equity, or proceeds; or with installment sales attributable to any Tennessee assets regardless of whether the entity has any remaining in-state activity.

(j) The commissioner shall ensure that any new integrated tax system implemented by the department will support the annualization of quarterly estimated payments.

(k)(1) As used in this subsection (k), "perfection period" means a period of ten (10) calendar days, beginning with the day after date of the first transmission of an electronic return that is subsequently rejected by the commissioner, for the taxpayer to either:

(A) Correct any errors in the return that cause it to fail to meet any of the validation criteria set by the commissioner and retransmit it; provided, that the commissioner subsequently accepts the corrected return; or

(B) File a paper return postmarked on or before the expiration of the ten (10) calendar days; provided, that the taxpayer is not required to electronically file or the commissioner grants the taxpayer permission to file the return on paper.

(2) A taxpayer's electronically filed return shall be treated as filed on the date of the last transmission prior to the return being accepted by the commissioner, except as provided in subdivision (k)(3). A taxpayer's paper return shall be treated as filed when mailed and postmarked, except as provided in subdivision (k)(3).

(3) A return that complies with the requirements of the perfection period shall be treated as filed on the date of the first electronic transmission.

67-4-2111. Apportionment of net worth.

(a)(1) Except as otherwise provided in this part, for tax years beginning prior to July 1, 2016, the net worth of a taxpayer doing business both in and outside this state shall be apportioned to this state by multiplying such values by a fraction, the numerator of which shall be the property factor plus the payroll factor plus twice the receipts factor, and the denominator of the fraction shall be four (4).

(2) Except as otherwise provided in this part, for tax years beginning on or after July 1, 2016, the net worth of a taxpayer doing business both in and outside this state shall be apportioned to this state by multiplying such values by a fraction, the numerator of which shall be the property factor plus the payroll factor plus three (3) times the receipts factor, and the denominator of the fraction shall be five (5).

(b)(1) The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property, excluding exempt inventory as defined in § 67-4-2108(a)(6), owned or rented and used in this state during the tax period, and the denominator of which is the average value of all the taxpayer's real and tangible personal property,

excluding exempt inventory, owned or rented and used during the tax period.

(2)(A) For a taxpayer electing to compute its net worth on a consolidated basis, and for a member of a captive REIT affiliated group, the property factor is a fraction computed as follows:

(i) The numerator of which is the average value of the taxpayer's real and tangible personal property, excluding exempt inventory as defined in § 67-4-2108(a)(6)(B), owned or rented and used in this state during the tax period; and

(ii) The denominator of which is the average value of the group's real and tangible personal property, excluding exempt inventory, owned or rented and used during the tax period.

(B) Exempt inventory shall be determined on a per member basis. Property owned by the taxpayer is valued at its original cost. Property rented by the taxpayer is valued at eight (8) times the net annual rental rate. The property factor shall be determined based on a pro forma consolidated balance sheet prepared in accordance with generally accepted accounting principles wherein transactions and holdings between members of the group and holdings in non-domestic persons have been eliminated.

(3) If a member of an affiliated group apportions its income in accordance with § 67-4-2013(a), then for purposes of computing its net worth on a consolidated basis, the member shall compute the numerator of its property factor as follows:

(A) The numerator shall include the average value of the taxpayer's real and tangible personal property, excluding exempt inventory as defined in § 67-4-2108(a)(6)(B), owned or rented and used in this state during the tax period;

(B) In determining the average value of mobile property to be included in the numerator, the value of such property shall be multiplied by a fraction the numerator of which is the total in-state miles of similarly classified mobile property and the denominator of which is the total everywhere miles of similarly classified mobile property; and

(C) For purpose of computing the fraction in subdivision (b)(3)(B), in-state miles and everywhere miles shall be calculated in accordance with the appropriate provisions of § 67-4-2013(a). For purposes of determining whether mobile property is similarly classified, the classification groupings enumerated in § 67-4-2013(a)(1)-(7) shall be used.

(4) For purposes of this section, "property" includes a taxpayer's ownership share of the real or tangible property owned or rented by any general partnership, or entity treated as a general partnership for federal income tax purposes, in which such taxpayer has an ownership interest. A return being filed by a limited liability company that has a general partnership as its single member shall include in its property factor only the real and tangible property owned or used by the limited liability company. "Property" also includes a taxpayer's ownership share of the real or tangible property owned or rented by any limited partnership, subchapter S corporation, limited liability company or other entity treated as a partnership for federal income tax purposes, in which the taxpayer has an ownership interest, directly or indirectly through one (1) or more such entities, and that is not doing business in Tennessee and, therefore, is not subject to Tennessee franchise tax. The cost value or rental value of such property shall be determined from the books and records of the entity in which the taxpayer has an interest and

such property shall be valued in accordance with subsection (c).

(c)(1) Property owned by the taxpayer is valued at its original cost. Property rented by the taxpayer is valued at eight (8) times the net annual rental rate. Net annual rental rate is the annual rental rate paid by the taxpayer, less any annual rental rate received by the taxpayer from sub-rentals. A lessee's payments to a lessor, or on such lessor's behalf, as a part of rent, or in lieu of rent, shall be included as rent in the property factor of the apportionment formula provided by this section. Except with respect to tangible personal property, for purposes of this subsection (c), payments, such as interest, taxes, insurance, repairs or other items, shall be treated as rent paid by the lessee, if they would have been paid by the lessor if the lease contract or other agreement had not specifically provided that they be paid by the lessee.

(2) For purposes of this section, the value of owned or leased mobile or movable property located both in and outside Tennessee during a tax period shall be determined on the basis of the total percentage of time such property is in the state during the tax period; provided, that the value of an automobile or truck assigned to a traveling employee shall be considered in Tennessee, if the employee's compensation is assigned to Tennessee for purposes of the taxpayer's apportionment formula payroll factor, or if such vehicle is licensed in Tennessee.

(d) The average value of property shall be determined by averaging the values at the beginning and end of the tax period, but the commissioner may require the averaging of monthly values during the tax period, if reasonably required to reflect properly the average value of the taxpayer's property.

(e)(1) The payroll factor is a fraction, the numerator of which is the total amount paid in this state during the tax period by the taxpayer for compensation, and the denominator of which is the total compensation paid everywhere during the tax period.

(2)(A) For a taxpayer electing to compute its net worth on a consolidated basis, and for a member of a captive REIT affiliated group, the payroll factor is a fraction computed as follows:

(i) The numerator of which is the total amount paid in this state during the tax period by the taxpayer for compensation; and

(ii) The denominator of which is the total compensation of the group paid everywhere during the tax period.

(B) The payroll factor shall be determined at the close of business on the last day of the tax year as shown by a pro forma consolidated income statement prepared in accordance with generally accepted accounting principles wherein transactions and holdings between members of the group and holdings in non-domestic persons have been eliminated.

(3) If a member of an affiliated group apportions its income in accordance with § 67-4-2013(a), then for purposes of computing its net worth on a consolidated basis, the member shall compute the numerator of its payroll factor as follows:

(A) The numerator shall include the total amount paid in this state during the tax period by the taxpayer for compensation;

(B) In determining the portion of compensation to be included in the numerator for personnel performing interstate services, the total compensation for such personnel shall be multiplied by a fraction the numerator of which is the total in-state miles traveled by personnel operating similarly classified mobile property and the denominator of which is the total everywhere miles traveled by personnel operating similarly classified

mobile property; and

(C) For purposes of computing the fraction in subdivision (e)(3)(B), in-state miles and everywhere miles shall be calculated in accordance with the appropriate provisions of § 67-4-2013(a). For purposes of determining whether mobile property is similarly classified, the classification groupings enumerated in § 67-4-2013(a)(1)-(7) shall be used.

(4) For purposes of this part, "compensation" has the same meaning as set forth in the Excise Tax Law of 1999, compiled in part 20 of this chapter.

(5) For purposes of this section, "compensation" includes a taxpayer's ownership share of the compensation of any general partnership, or entity treated as a general partnership for federal income tax purposes, in which such taxpayer has an ownership interest. A return being filed by a limited liability company that has a general partnership as its single member shall include in its payroll factor only the compensation attributed to the limited liability company. "Compensation" also includes a taxpayer's ownership share of the real or tangible property owned or rented by any limited partnership, subchapter S corporation, limited liability company or other entity treated as a partnership for federal income tax purposes, in which the taxpayer has an ownership interest, directly or indirectly through one (1) or more such entities, and that is not doing business in Tennessee and thus is not subject to Tennessee franchise tax.

(f) Compensation is paid in this state, if:

(1) The individual's service is performed entirely in the state;

(2) The individual's service is performed both in and outside the state, but the service performed outside the state is incidental to the individual's service in the state; or

(3) Some of the service is performed in the state; and:

(A) The base of operations, or, if there is no base of operations, the place from which the service is directed or controlled is in the state; or

(B) The base of operations or the place from which the service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in this state.

(g)(1) The receipts factor is a fraction, the numerator of which is the total receipts of the taxpayer in this state during the tax period, and the denominator of which is the total receipts of the taxpayer everywhere during the tax period.

(2) For a taxpayer electing to compute its net worth on a consolidated basis, and for a member of a captive REIT affiliated group, the receipts factor is a fraction, the numerator of which is the taxpayer's total receipts in this state during the tax period, and the denominator of which is the group's total receipts during the tax period. The receipts factor shall be determined for the group at the close of business on the last day of the tax year as shown by a pro forma consolidated income statement prepared in accordance with generally accepted accounting principles wherein transactions and holdings between members of the group and holdings in non-domestic persons have been eliminated.

(3) If a member of an affiliated group apportions its income in accordance with § 67-4-2013(a), then for purposes of computing its net worth on a consolidated basis, the member shall compute the numerator of the receipts factor in accordance with the appropriate provisions of § 67-4-2013(a).

(4) For purposes of this section, "gross receipts" includes a taxpayer's ownership share of the gross receipts of any general partnership or entity

treated as a general partnership for federal income tax purposes in which such taxpayer has an ownership interest. A return being filed by a limited liability company that has a general partnership as its single member shall include in its receipts factor only the gross receipts attributed to the limited liability company. "Gross receipts" also includes a taxpayer's ownership share of gross receipts of any limited partnership, subchapter S corporation, limited liability company, or other entity treated as a partnership for federal income tax purposes, in which the taxpayer has an ownership interest, directly or indirectly, through one (1) or more such entities, and that is not doing business in Tennessee and thus is not subject to Tennessee franchise tax.

(h) Receipts from sales of tangible personal property are in this state, if the:

(1) Property is delivered or shipped to a purchaser, other than the United States government, in this state regardless of the F.O.B. point or other conditions of the sale; or

(2) Property is shipped from an office, store, warehouse, factory or other place of storage in this state and the purchaser is the United States government.

(i)(1) Sales, other than sales of tangible personal property, are in this state if the taxpayer's market for the sales is in this state. The taxpayer's market for a sale is in this state:

(A) In the case of sale, rental, lease, or license of real property, if and to the extent the property is located in this state;

(B) In the case of rental, lease, or license of tangible personal property, if and to the extent the property is located in this state;

(C) In the case of sale of a service, if and to the extent the service is delivered to a location in this state; and

(D) In the case of intangible property:

(i) That is rented, leased, or licensed, if and to the extent the intangible property is used in this state; provided, that intangible property utilized in marketing a good or service to a consumer is considered used in this state if that good or service is purchased by a consumer who is in this state; and

(ii) That is sold, if and to the extent the property is used in this state; provided, that:

(a) A contract right, government license, or similar intangible property that authorizes the holder to conduct a business activity in a specific geographic area is considered used in this state if the geographic area includes all or part of this state;

(b) Receipts from intangible property sales that are contingent on the productivity, use, or disposition of the intangible property shall be treated as receipts from the rental, lease, or licensing of such intangible property under subdivision (i)(1)(D)(i); and

(c) All other receipts from a sale of intangible property shall be excluded from the numerator and denominator of the receipts factor.

(2) If the state or states of assignment under subdivision (i)(1) cannot be determined, the state or states of assignment shall be reasonably approximated.

(3) If the state of assignment cannot be determined under subdivision (i)(1) or reasonably approximated under subdivision (i)(2), such sale shall be excluded from the numerator and denominator of the sales factor.

(4) If the application of this subsection (i) to a tax year results in a lower apportionment factor than under the application of the apportionment method in this subsection (i) as it was in effect prior to January 1, 2016, then a taxpayer may annually elect to apply the apportionment method in this subsection (i) as in effect prior to January 1, 2016; provided, however, the election must result in a higher apportionment factor for the tax year, and the taxpayer must have net earnings, rather than a net loss, for that tax year as computed under § 67-4-2006.

(j)(1) For any qualified member of a qualified group, total receipts in this state shall equal the receipts from all sales of tangible personal property that are in this state as determined under subsection (h), plus the arithmetical average of the receipts from all sales other than sales of tangible personal property that are in this state as determined under each of the following alternative methods:

(A) All sales that are in this state as determined under subsection (i); and

(B) All sales, other than sales of tangible personal property, where the earnings-producing activity is performed:

(i) In this state; or

(ii) Both in and outside this state and a greater proportion of the earnings-producing activity is performed in this state than in any other state, based on costs of performance.

(2) For purposes of this subsection (j), the following definitions shall apply:

(A) "Qualified expenditures" means expenditures incurred in transactions with persons who are not members of the qualified group for the following:

(i) Purchasing tangible personal property placed in service in this state by a member of the qualified group; and

(ii) Payroll for employees employed by a member of the qualified group at a facility in this state;

(B) "Qualified group" means an affiliated group that meets both of the following criteria:

(i) One or more members of the group is a qualified member; and

(ii) The members of the group, during the tax period, either:

(a) Incur, in the aggregate, qualified expenditures in an amount greater than one hundred fifty million dollars ($150,000,000); or

(b) Make sales that are subject to the tax imposed by chapter 6 of this title in excess of one hundred fifty million dollars ($150,000,000);

(C) "Qualified member" means a person that is principally engaged in the sale of "telecommunications service," "mobile telecommunications service," "Internet access service," "video programming service," "direct-to-home satellite television programming service," or a combination of such services, as each such term is used or defined in chapter 6 of this title.

(3) The method provided by this subsection (j) for determining the total receipts in this state of a qualified member shall be the only method for determining such receipts under this part.

(k) Notwithstanding any provision of this section to the contrary, any gain on the sale of an asset that is designated as goodwill and is required to be included as Class VII assets pursuant to the reporting requirements of 26 U.S.C. §§ 338(b)(5) and 1060, and associated regulations, shall be excluded from both the numerator and the denominator of the apportionment formula

receipts factor.

(*l*)(1) A taxpayer whose principal business in Tennessee is manufacturing may elect to apportion net worth to this state by multiplying such values by a fraction, the numerator of which is the total receipts of the taxpayer in Tennessee during the taxable year and the denominator of which is the total receipts of the taxpayer from any location within or outside of the state during the taxable year.

(2) For purposes of this subsection (*l*), a taxpayer's principal business in Tennessee is manufacturing if more than fifty percent (50%) of the revenue derived from its activities in this state, excluding passive income, is from fabricating or processing tangible personal property for resale and consumption off the premises. For purposes of this subsection (*l*), "passive income" means dividend income, interest income, income derived from the sale of securities, and income derived from the licensing or sale of patents, trademarks, tradenames, copyrights, know-how, or other intellectual property.

(3) To elect the method of apportionment provided in this subsection (*l*), the taxpayer shall notify the department of the election, in writing, on its return for the taxable year to which the election applies.

(4) Once a taxpayer elects the method of apportionment provided in this subsection (*l*), such election shall remain in effect for a minimum of five (5) tax years and thereafter until revoked. The taxpayer may revoke the election after the minimum period by notifying the department of the revocation, in writing, on its return for the first taxable year to which the revocation applies. A taxpayer that revokes the election shall not be permitted to newly elect the method of apportionment provided in this subsection (*l*) for a period of five (5) tax years, beginning with the tax year in which the taxpayer revoked the previous election.

(5) Notwithstanding any other provision of law, prior to July 1, 2033, or any earlier date on which no bonds issued pursuant to title 9, chapter 9, and outstanding as of July 1, 2013, shall remain outstanding, this subsection (*l*) shall become operative only for such fiscal years as to which the state funding board shall have certified as provided by § 9-9-104(b).

(m)(1) Notwithstanding any other provision of this part, a financial asset management company may elect to apportion net worth by multiplying such net worth by a fraction, the numerator of which is the total receipts of the taxpayer in Tennessee during the taxable year as determined under this section and the denominator of which is the total receipts of the taxpayer everywhere during the taxable year.

(2) For the purposes of this subsection (m):

(A)(i) "Financial asset management company" means an entity that is a limited partnership, or is treated as a partnership for federal tax purposes, that is engaged in the business of providing financial asset management services, and either:

(a) Has a class of equity securities registered under Section 12(g) of the Securities Exchange Act of 1934 (15 U.S.C. § 78l(g)) and, as a result, is subject to the public company reporting requirements contained in Section 13(a) of the Securities Exchange Act of 1934 (15 U.S.C. § 78m); or

(b) Is owned by a publicly traded partnership that owns at least twenty five percent (25%) of the entity and such ownership interest constitutes more than fifty percent (50%) of the total assets of the

publicly traded partnership; and

(ii) "Financial asset management company" does not include any type of real estate investment trust as defined in § 67-4-2004;

(B) "Financial asset management services" means the following services when performed with respect to financial investments: managing portfolio assets of others on a fee or commission basis; rendering investment advice, including investment research and analysis; making determinations as to when sales and purchases of investments are to be made; and selling or purchasing of investments;

(C) "Financial investments" means, without limitation, investments in stocks, stock options, bonds, and alternative asset classes (including, but not limited to, real estate, commodities, and other debt obligations); and

(D) "Publicly traded partnership" means an entity that is a limited partnership, or is treated as a partnership for federal tax purposes, that files with the securities and exchange commission and whose shares are regularly traded on a securities exchange that is either registered as a national securities exchange with the securities exchange commission under Section 6 of the Securities Exchange Act of 1934 (15 U.S.C. § 78f), or is a national securities exchange of a foreign country and regulated in a substantially similar manner by a foreign financial regulatory authority.

(3) To elect the method of apportionment provided in this subsection (m), the taxpayer shall notify the department of the election, in writing, on its return for the taxable year to which the election applies.

(4) Once a taxpayer elects the method of apportionment provided in this subsection (m), such election shall remain in effect for a minimum of five (5) tax years and thereafter until revoked. The taxpayer may revoke the election after the minimum period by notifying the department of the revocation, in writing, on its return for the first taxable year to which the revocation applies. A taxpayer that revokes the election shall not be permitted to newly elect the method of apportionment provided in this subsection (m) for a period of five (5) tax years, beginning with the tax year in which the taxpayer revoked the previous election.

67-4-3003. Privilege tax on sales in business activity in a qualified public use facility and in tourism development zones — Ordinance authorizing privilege tax — Petition by voters calling for election — Election — Duration of tax.

(a)(1) The making of sales by engaging in any business or business activity, except for those businesses exempt under § 67-4-712, in a qualified public use facility or in a portion of a qualified public use facility that is designated by an ordinance of the municipality is declared to be a privilege upon which the municipality in which the business or business activity is carried on may levy a privilege tax in an amount not to exceed five percent (5%) of the sales price.

(2) The municipality may also by ordinance levy the privilege tax imposed by this part on businesses in the tourism development zone that are outside the qualified public use facility, that are owned or operated either wholly, partly, or jointly by the owner or operator of the qualified public use facility. Only the municipality that obtained certification of the tourism development zone in which the qualified public use facility is located is authorized to levy

the tax pursuant to this part.

(b)(1) No ordinance authorizing the privilege tax in subsection (a) shall take effect unless it is approved by a two-thirds (⅔) vote of the municipal legislative body at two (2) consecutive, regularly scheduled meetings, or unless it is approved by a majority of the number of qualified voters of the municipality voting in an election on the question of whether or not the tax should be levied.

(2) If there is a petition of ten percent (10%) of the qualified voters who voted in the municipality in the last gubernatorial election that is filed with the county election commission within thirty (30) days of final approval of the ordinance by the municipal legislative body, then the county election commission shall call an election on the question of whether or not the tax should be levied in accordance with this section.

(3) The municipal legislative body shall direct the county election commission to call the election, to be held in a regular election or in a special election for the purpose of approving or rejecting the tax levy. The municipality shall pay the cost of any special election.

(4) The ballots used in the election shall have printed on them the substance of the ordinance and the voters shall vote for or against its approval.

(5) The votes cast on the question shall be canvassed and the results proclaimed by the county election commission and certified by it to the municipal legislative body.

(6) The qualifications of voters voting on the question shall be the same as those required for participation in general elections.

(7) All laws applicable to general elections shall apply to the determination of the approval or rejection of this tax levy.

(c)(1) Tax levied pursuant to this part shall continue until the earlier of:

(A) The date on which the cumulative amount, apportioned and distributed to the municipality under §§ 7-88-106(a) and 67-4-3005, equals either the cost of the qualified public use facility, plus any interest on indebtedness of the municipality or public authority related to the cost, or any lesser amount of the cost of the qualified public use facility and interest that may be established in authorizing the levy of the tax;

(B) The date on which the qualified public use facility ceases to be a qualified public use facility; or

(C) Thirty (30) years from the date it is reasonably anticipated that the facility will commence operations as a public use facility, at which time the authority of the municipality to levy the tax shall expire and be terminated.

(2) Tax levied pursuant to this part for a qualified public use facility approved pursuant to § 7-88-106(a)(2) shall continue until the earlier of:

(A) Thirty (30) years from the date it is reasonably anticipated that the facility will commence operations as a public use facility; or

(B) The date the cumulative amount apportioned and distributed to the municipality under § 67-4-3005 with respect to such public use facility equals the indebtedness of the municipality or public authority, plus interest thereon, related to the cost of the public use facility payable from such amount.

67-6-105. Event Tourism Act. [Effective on January 1, 2019 and effective until July 1, 2023.]

(a) This section shall be known and may be cited as the "Event Tourism Act."

(b) As used in this section:

(1) "Department" means the department of finance and administration;

(2) "Endorsing local authority" means a county or municipality that contains a site suitable for hosting an event;

(3) "Event":

(A) Means an event:

(i) Organized by a site selection organization or a sanctioning body;

(ii) For which the site is determined through a competitive selection process that includes consideration of one (1) or more sites that are not located in this state; or

(iii) That is a new or non-annual event not exceeding two (2) years; and

(B) Includes any activities related to or associated with an event;

(4) "Event period" means a period of time in which the department determines there is a reasonable likelihood of measurable economic impact directly attributable to the preparation for and presentation of the event;

(5) "Event revenue" means the revenue generated from collection of state sales and use taxes, pursuant to this chapter, and from the privilege tax imposed on the sale of alcoholic beverages for consumption on the premises pursuant to § 57-4-301(c), from all businesses at an event venue for the event period;

(6) "Event venue" means the facility or facilities where an event will take place;

(7) "Event venue host" means a person, corporation, limited liability company, association, governmental entity, or other entity that owns or operates a facility suitable for hosting an event that enters into an agreement with a local organizing committee to host an event at the facility;

(8) "Fund" means the event tourism fund established by this section;

(9) "Local organizing committee" means a nonprofit corporation that:

(A)(i) Has been authorized to pursue an application to a site selection organization or a sanctioning body for selection as the site of an event by an endorsing local authority or multiple local endorsing authorities acting collectively;

(ii) Has executed an agreement with a site selection organization or a sanctioning body regarding a bid to host an event with the authorization of an endorsing local authority or multiple endorsing local authorities acting collectively; or

(iii) Has created a new event or secured a non-guaranteed event with the authorization of an endorsing local authority or multiple endorsing local authorities acting collectively; and

(B) Is governed by a board of at least three (3) members, of whom:

(i) One (1) or more is a representative of a business, which may be for-profit or not-for-profit, that is qualified to do business in the state;

(ii) One (1) or more is a local elected official; and

(iii) One (1) or more is a representative from a nonprofit entity that promotes tourism in the local area, such as a convention and visitor's bureau, chamber of commerce, or destination marketing organization;

(10) "Qualified expense":

(A) Means any expense of a local organizing committee, endorsing local authority, or event venue host directly related to the event and approved by the department;

(B) Includes the following, if approved by the department:

(i) Reasonable labor and equipment costs directly related to the event beyond the scope of normal employment;

(ii) Reasonable costs related to improvements or renovations to existing facilities in preparation for the event; and

(iii) Reasonable costs related to acquisition or construction of new facilities for the event; and

(C) Does not include usual and customary maintenance of a facility; and

(11) "State building commission" means the state building commission created by § 4-15-101.

(c)(1) There is created the event tourism fund. Moneys deposited in the event tourism fund shall be expended in accordance with this section. Any unencumbered funds and any unexpended balance of the 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.

(2) No payment shall be made from the event tourism fund unless authorized by the department.

(d) A local organizing committee may apply to the department for the certification of an event in accordance with this section. An application for certification of an event must include:

(1) A proposed event venue and event period;

(2) An estimate of the event revenue to be collected within the event venue during the event period that is directly attributable to the preparation for and presentation of the event;

(3) Estimated attendance at the event;

(4) Financial information related to the projected revenue and expenses of the event;

(5) An estimate of the number of out-of-state visitors who will attend the event;

(6) A marketing plan for the event; and

(7) Any other relevant information as determined by the department.

(e) No funds shall be spent from the event tourism fund for an event unless the event is certified by the department of tourist development and the department of finance and administration. An event shall not be certified unless:

(1) The event is expected to have a measurable economic impact;

(2) The event would not be held in this state without certification of the event;

(3) An event venue and an event period have been approved;

(4) The state building commission has defined the boundaries of the event venue for the purposes of the event;

(5) The proposed expenses of the event are directly related to the event; and

(6) The event is located outside of a sports authority or tourism development zone that receives allocations pursuant to § 67-6-103(d), § 67-6-103(e), or § 7-88-106.

(f)(1) Following the completion of an event, a local organizing committee shall apply to the department for reimbursement of qualified expenses

incurred by the local organizing committee, an endorsing local authority, and an event venue host related to the event. The total reimbursements paid for an event may not exceed the total event revenue deposited into the event tourism fund related to the event.

(2) Any allocations to the event tourism fund shall not include any amounts allocated to a sports authority or a tourism development zone pursuant to § 67-6-103(d), § 67-6-103(e), or § 7-88-106.

(3) To receive any reimbursement of qualified expenses, the event venue host must register the event and all associated vendors with the department of revenue on forms prescribed by the department. Any failure by the event venue host to register associated vendors with the department may reduce the total eligible reimbursement amount.

(g) All applications, documents, communications, and reports related to this section are public records subject to disclosure pursuant to title 10, chapter 7, part 5, except for any tax information or tax administration information that is confidential pursuant to chapter 1, part 17 of this title.

(h) Financial records directly related to the event that receives reimbursement for qualified expenses pursuant to this section are subject to audit by the comptroller of the treasury.

67-8-304. Taxable transfers generally. [Not applicable to decedents who die in 2016 or after, see § 67-8-318.]

The following transfers enumerated in § 67-8-303 shall be taxable:

(1) Transfers made by a will;

(2) Transfers made by statutes regulating descent and distribution of property upon the death of the owner;

(3) Transfers made by gift of the decedent to the extent of the value of any interest in property transferred, by trust or otherwise, during the three-year period ending on the date of the decedent's death. Property for purposes of this subdivision (3) shall include any property specified in § 67-8-303. The value of the property on the date it was transferred, less the exemptions provided for under § 67-8-104, shall be includable; provided, that the transfer of a life insurance policy shall be includable at its proceeds value on the date of death without regard to the policy's value on the date of transfer or the exemptions provided for under § 67-8-104. In addition, any Tennessee gift tax paid on the transfer of any interest in property taxable under parts 3-5 of this chapter shall be a credit against any inheritance tax payable under parts 3-5 of this chapter. The amount of the gross estate, determined without regard to this sentence, shall be increased by the amount of any tax paid under part 1 of this chapter by the decedent or the decedent's estate on any gift made by the decedent or the decedent's spouse after December 31, 1978, during the three-year period ending on the date of the decedent's death;

(4) If by a domiciliary, any property specified in § 67-8-303(a)(1), and, if by a decedent who is not a domiciliary, any property specified in § 67-8-303(a)(2) transferred by the decedent prior to death by gift or grant intended to take effect in possession or enjoyment at or after death;

(5) A transfer of property subject to any charge, estate or interest, determinable by the death of the decedent or at any period ascertainable only by reference to the death of the decedent, is deemed to have been

intended to take effect in possession or in enjoyment at or after death;

(6) If any transfer of property specified in subdivision (3), (4) or (5) was made for a valuable consideration, so much thereof as is the equivalent in money value of the money value of such present consideration received by the transferor shall not be included, but the remaining portion shall be;

(7) In case of any transfer of property specified in subdivision (5), the increase accruing to any person or corporation upon the extinction or termination of such charge, estate, or interest shall be deemed a transfer of property taxable under parts 3-5 of this chapter;

(8) Transfers made pursuant to a power of appointment, held by the decedent, to the same extent that the transfer would be taxable pursuant to § 2041 of the Internal Revenue Code, except that:

(A) An unexercised general power of appointment, granted by a will, probated prior to November 1, 1978, and held by a decedent who died on or after May 1, 1980, and prior to May 28, 1981, shall not be a taxable transfer; and

(B) A credit shall be allowed against the tax liability imposed for the transfer of property by an unexercised general power of appointment that was irrevocable prior to November 1, 1978, if the property transferred by such power of appointment had previously been included in the taxable estate of a decedent spouse. The credit shall be calculated, using values reported on the return of the prior estate, by multiplying the ratio of:

(i) Value of the property transferred by such power of appointment, over

(ii) Value of property allocated to Class A beneficiaries by the return of the prior estate, times

(iii) Tax paid by the prior estate on transfers to Class A beneficiaries, as follows:

$$\frac{a}{b} \times c$$

This credit shall not, however, be allowed for the transfer of any property for which the credit, pursuant to § 67-8-317, is allowable.

(C) An overpayment of inheritance taxes, that resulted from a failure to take the credit referred to in subdivision (8)(B), shall be subject to refund on application of the estate made pursuant to § 67-1-707, and to the extent that no additional estate tax, pursuant to part 2 of this chapter would have been assessable as a result of such credit. Any such refund, in the amount of fifteen thousand dollars ($15,000) or more, shall be paid in three (3) equal annual installments. The first installment shall be made within a reasonable time following the approval of the claim for refund, the second installment shall be made within one (1) year following the first installment, and the third installment shall be made within two (2) years following the first installment;

(9) There shall be included for taxation under parts 3-5 of this chapter the value of any annuity or any other payment taxable for federal estate tax purposes under 26 U.S.C. § 2039 as amended by P.L. No. 98-369. The provisions enacted into federal law by the Tax Reform Act of 1984 (26 U.S.C. § 1 et seq.), shall be applicable to this subdivision (9), including all effective dates contained in the act; and

(10)(A) Property in which the decedent held a "qualifying income interest for life," as defined in § 2056(b)(7)(B)(ii) of the Internal Revenue Code (26

U.S.C. § 2056(b)(7)(B)(ii)), if:

(i) A deduction was allowed with respect to the transfer of such property to the decedent:

(a) Under § 67-8-315(a)(6) by reason of its incorporation of § 2056(b)(7) of the Internal Revenue Code (26 U.S.C. § 2056(b)(7)); or

(b) Under § 67-8-105(a) by reason of its incorporation of § 2523(f) of the Internal Revenue Code (26 U.S.C. § 2523(f));

(ii) The election specified in either § 2056(b)(7) or § 2523(f) of the Internal Revenue Code was made to the department of revenue; and

(iii) Section 67-8-101(e), relating to disposition of certain life estates, did not apply with respect to a disposition by the decedent of part or all of such property.

(B) For purposes of taxation under this subdivision (10), the classification of beneficiaries provided for by § 67-8-302 shall be determined by reference to the relationship of the beneficiaries of the remainder interest named in the instrument to the decedent or person creating such remainder interest.

68-1-108. Reports of claims data by licensed hospitals — Penalties — Waiver — Licensure — Civil liability — Annual report.

(a) Each hospital licensed under this title or title 33, or the hospital's designated entity, shall report all claims data found on the UB-92 form or a successor form on every inpatient and outpatient discharge to the commissioner of health. A hospital shall report the claims data to the commissioner at least quarterly. After receiving the claims data, the commissioner shall promptly make the data available for review and copying by the Tennessee Hospital Association (THA) who shall use the data strictly for its own internal purposes and for internal purposes of its members. No information shall be made available to the public by either the commissioner or the THA that reasonably could be expected to reveal the identity of any patient. The claims data reported to the commissioner under this section are confidential and not available to the public until the commissioner processes and verifies the data. The commissioner shall prescribe conditions under which the processed and verified data are available to the public and shall establish policies for the release of HIPAA compliant limited use data sets.

(b) A licensed hospital shall pay to the commissioner a civil penalty of five cents (5¢) for each day the claims data discharge report is delinquent. A claims data report is delinquent if the commissioner does not receive it before sixty (60) days after the end of the quarter. If the commissioner receives the report in incomplete form, the commissioner shall notify the hospital and provide fifteen (15) additional days to correct the error. The notice shall provide the hospital an additional fifteen (15) days to complete the form and return it to the commissioner prior to the imposition of any civil penalty. The maximum civil penalty for a delinquent report is ten dollars ($10.00) for each discharge record. The commissioner shall issue an assessment of the civil penalty to the hospital. The hospital has a right to an informal conference with the commissioner, if the hospital requests such conference within thirty (30) days of receipt of the assessment. After the informal conference or, if no conference is requested, after the time for requesting the informal conference has expired, the commissioner may proceed to collect the penalty by setting the penalty off

against funds owed to the hospital or by instituting litigation.

(c) In its request for an informal conference, the hospital may request the commissioner to waive the penalty. The commissioner may waive the penalty in cases of an act of God or other acts beyond the control of the hospital. Waiver of the penalty is in the sole discretion of the commissioner. None of these proceedings is subject to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(d) A hospital licensed pursuant to chapter 11, part 2 of this title shall, as a condition of licensure, continue to complete and submit annually the report of hospital statistics required by § 68-11-310 and regulations promulgated pursuant to that section.

(e) No person or entity, including the THA, may be held liable in any civil action with respect to any report or disclosure of information made under this section, unless the person or entity has knowledge of any falsity of the information reported or disclosed.

(f) On or before March 1 of each year, the department of health shall submit to the governor, the speaker of the senate, the speaker of the house of representatives, the health and welfare committee of the senate, and the health committee of the house of representatives a report with de-identified aggregate claims data on every inpatient and outpatient discharge that includes coded drug poisonings as reported for the calendar year two (2) years prior to the current year by licensed hospitals to the commissioner of health pursuant to this chapter. The department shall also publish the data submitted under this subsection (f) on the department's Internet web site.

68-1-128. High volume prescribers of controlled substances — High-risk prescribers based on clinical outcomes.

(a) No later than July 31, 2013, and at least annually thereafter but more often at the discretion of the commissioner, the department of health shall:

(1)(A) Identify the top fifty (50) prescribers who have unique DEA numbers of controlled substances, other than buprenorphine formulations that have not received approval for pain applications from the federal food and drug administration, in the previous calendar year, or if implemented more frequently for the relevant time period as determined by the department, from the data available in the controlled substances database established pursuant to title 53, chapter 10, part 3;

(B) Identify the top twenty (20) prescribers who have unique DEA numbers of buprenorphine products or equivalent products in the previous calendar year, or if implemented more frequently for the relevant time period as determined by the department, from the data available in the controlled substances database established pursuant to title 53, chapter 10, part 3. The department may organize the list of prescribers required by this subdivision (a)(1)(B) in any manner as may be appropriate to reflect levels of service, training, or other relevant factors by a healthcare provider. These factors may include, but not be limited to, whether the provider is board-certified;

(2) Send a letter through registered mail to each prescriber identified in subdivision (a)(1), and to the collaborating physician as found on the provider's profile established in title 63, chapter 32 of each advanced practice registered nurse and each physician assistant identified in subdivision (a)(1)

that notifies the prescribers and, where appropriate, the collaborating physician that the prescriber has been identified pursuant to subdivision (a)(1) and includes the following information:

(A) The significant controlled substances prescribed by the prescriber;

(B) The number of patients prescribed these controlled substances by the prescriber;

(C) The total milligrams in morphine equivalents of controlled substances prescribed during the relevant period of time; and

(D) Any other relevant information sought by the department; and

(3) If there is an active investigation against the prescriber or, where appropriate the collaborating physician on the lists of prescribers identified in (a)(1), the department is authorized to withhold any communication required under this section until such time as charges are brought or the investigation is closed.

(b)(1)(A) At the discretion of the department, each prescriber and each collaborating physician of an advanced practice registered nurse and physician assistant who appear on the lists of the top twenty (20) prescribers of buprenorphine products, the top fifty (50) prescribers of controlled substances in the state, and the top ten (10) prescribers of controlled substances in all of the counties combined having a population of less than fifty thousand (50,000), according to the 2010 federal census or any subsequent federal census in the relevant period of time shall submit to the department within fifteen (15) business days through registered mail or electronic mail an explanation justifying the amounts of controlled substances prescribed in the relevant period of time by the prescriber demonstrating that these amounts were medically necessary for the patients treated and that, for advanced practice registered nurses and physician assistants, the collaborating physician had reviewed and approved the prescribing amounts. The department shall consider the prescriber's specialty and the patients' ages to make a determination as to whether the explanation of the prescriber and, where appropriate the collaborating physician for the prescribing habits of the prescriber of controlled substances is justifiable.

(B) The department is authorized to develop a model form to assist the prescriber and where appropriate the collaborating physician in completing the explanation required by this subsection (b).

(C) The department is authorized to contract with an expert reviewer to determine if the explanation is acceptable. Should charges ultimately be filed against the prescriber or, where appropriate the collaborating physician any report of the expert reviewer shall be discoverable by the licensee.

(2) If the department is not satisfied with any explanation by the prescriber or where appropriate a collaborating physician it shall communicate via registered mail such concerns to the prescriber and, if appropriate, the collaborating physician. The prescriber and, if appropriate, the collaborating physician shall have fifteen (15) business days to attempt to rectify the department's stated concerns.

(3) If the department remains unsatisfied after receiving a justification pursuant to subdivision (b)(2), the department may submit its concerns to the member of the controlled substance database committee who represents the board which has licensed the individual. This member shall have access

to all of the documents pertaining to the concerns of the department and the expert reviewer. If that member also believes that the explanations which have been provided are not sufficient to justify the prescribing pattern of the prescriber, the concerns may be forwarded to the department's office of investigations. Investigations are conducted by the entity responsible for licensure of that prescriber.

(c)(1) In addition to identifying prescribers pursuant to subsections (a) and (b), beginning July 1, 2017, and annually thereafter, the department shall identify high-risk prescribers based on clinical outcomes, including patient overdoses. The determination of which providers are high-risk prescribers, including the criteria to make such determination, shall be made by the department. Providers determined to be high-risk prescribers pursuant to this subdivision (c)(1) shall be subject to selected chart review and investigation by the department.

(2) If a prescriber is identified as a high-risk prescriber pursuant to subdivision (c)(1), the department shall submit the high-risk prescriber's information to the board that issued the prescriber's license for appropriate action.

(3) Upon receiving information pursuant to subdivision (c)(2), the licensing board shall notify the prescriber and, if applicable, the prescriber's collaborating physician of the prescriber's identification as a high-risk prescriber and, as applicable, require the prescriber to:

(A) Participate in continuing education that is designed to inform providers about the risks, complications, and consequences of opioid addiction. The specific continuing education courses and number of hours to be completed by the prescriber shall be determined by the licensing board;

(B) Make available, in the prescriber's waiting room and clinic areas where the prescriber's patient can view, educational literature that warns persons of risks, complications, and consequences of opioid addiction. The specific literature to be made available pursuant to this subdivision (c)(2)(B) shall be determined by the department and made available on the department's website;

(C) Obtain written consent on a form that explains the risks of, complications of, medical and physical alternatives to, and consequences of opioid therapy and addiction to any patient who will receive opioid therapy for more than three (3) weeks with daily dosages of sixty (60) morphine milligram equivalents (MME) or higher. The consent shall include a certification from the patient that the patient understands the information. In order to continue to treat the patient, the provider must assure that the consent is signed by the patient and made part of the patient's health record; and

(D) Renew the consent described in subdivision (c)(3)(C) at four-week intervals for patients who continue to receive opioid therapy. In order to continue to treat the patient, the provider must assure that the consent is signed by the patient and made part of the patient's health record.

(4) An identified high-risk prescriber must comply with the requirements set out in subdivision (c)(3) for a period of one (1) year from the time the provider was notified of the provider's identification as a high-risk prescriber of opioids. Failure of a prescriber to comply with the requirements set out in subdivision (c)(3) shall be treated as an act constituting unprofessional conduct for which disciplinary action may be instituted under the authority

of the board that issued the prescriber's license.

(5) All costs associated with this subsection (c) shall be paid by the identified provider.

(6) If the provider disputes the identification of the provider as a high-risk prescriber of opioids, the provider may request the department conduct an internal review of the identification, which shall be done by the commissioner or the commissioner's designee. Any such internal review is not subject to the provisions of title 4, chapter 5, part 3.

(d) All data, reports and correspondence under this section shall be confidential and shall not be considered to be a public record for purposes of title 10, chapter 7.

(e) All correspondence and reports can be used by the department's office of investigations and/or the respective entity responsible for licensure to develop a disciplinary case against the prescriber and, where appropriate, the collaborating physician of an advanced practice registered nurse or physician assistant.

(f) The failure of a prescriber or, where appropriate, a collaborating physician to respond to the department's request for information in a timely fashion may be a cause for disciplinary action by the prescriber's, or where appropriate the collaborating physician's licensing board, and may include a penalty of up to one thousand dollars ($1,000) per day for failure to respond or failure to respond in a timely manner.

(g) All correspondence shall be maintained for five (5) years and kept organized by prescriber so that information on a prescriber who appears on multiple lists compiled pursuant to subsection (a) may be aggregated.

(h)(1) After the completion of the study provided for in subdivision (i)(1), and no later than July 31 of each subsequent year, in consultation with the controlled substance database, the department of health shall identify licensed prescribers whose prescribing patterns of controlled substances represent statistical outliers in addition to top prescribers and high-risk prescribers identified pursuant to this section.

(2) The department of health shall inquire of the appropriate licensing board concerning any action taken against a prescriber identified by the department pursuant to subdivision (h)(1). Each board shall respond within thirty (30) days concerning the status of any action or lack of action against an identified prescriber.

(3) Each board shall also report on the total numbers of prescribers disciplined each year and the general categories of discipline imposed on the prescribers, including consent agreements, as well as reasons for declining to exercise discipline.

(4) The commissioner of health shall report a summary of the data concerning prescribers identified under this subsection (h), including a summary of any disciplinary action taken or pending by a licensing board against a prescriber, to the chairs of the health and welfare committee of the senate and the health committee of the house of representatives.

(i)(1) On or before January 1, 2020, the comptroller of the treasury shall complete a study of the incidence of significantly statistically abnormal prescribing patterns by prescribers licensed under title 63 and the disciplinary response of the licensing boards to those prescribers. The comptroller shall report findings and recommendations of the study to the chairs of the health and welfare committee of the senate and the health committee of the

house of representatives.

(2) Notwithstanding any other state law, the department of health, the controlled substance database, and a licensing board of any prescriber of opioids shall disclose to the comptroller of the treasury any relevant information in order for the comptroller to complete this study from July 1, 2018, through June 30, 2020. Any record that personally identifies a patient or a healthcare practitioner that is disclosed to the comptroller shall be confidential and shall not be disclosed as a public record at any time and shall not be subject to a subpoena.

68-1-136. Needle and hypodermic syringe exchange program.

(a) If approved by the department of health, a county or district health department pursuant to subsection (i) or any nongovernmental organization, including an organization that promotes scientifically proven ways of mitigating health risks associated with drug use and other high-risk behaviors, may establish and operate a needle and hypodermic syringe exchange program. The objectives of the program shall be to do all of the following:

(1) Reduce the spread of human immunodeficiency virus (HIV), acquired immunodeficiency syndrome (AIDS), viral hepatitis, and other bloodborne diseases in this state;

(2) Reduce needle stick injuries to law enforcement officers and other emergency personnel; and

(3) Encourage individuals who inject drugs to enroll in evidence-based treatment.

(b) Programs established pursuant to this section shall offer all of the following:

(1) Disposal of used needles and hypodermic syringes;

(2) Needles, hypodermic syringes, and other injection supplies at no cost and in quantities sufficient to ensure that needles, hypodermic syringes, and other injection supplies are not shared or reused. A program shall strive for one-to-one syringe exchanges. No public funds may be used by a nongovernmental organization to purchase needles, hypodermic syringes, or other injection supplies;

(3) Reasonable and adequate security of program sites, equipment, and personnel. Written plans for security shall be provided to the law enforcement offices with jurisdiction in the program location and shall be updated annually;

(4) Educational materials on all of the following:

(A) Overdose prevention;

(B) The prevention of HIV, AIDS, and viral hepatitis transmission;

(C) Drug abuse prevention;

(D) Treatment for mental illness, including treatment referrals; and

(E) Treatment for substance abuse, including referrals for medication assisted treatment;

(5) Access to naloxone for the treatment of a drug overdose, or referrals to programs that provide access to naloxone for the treatment of a drug overdose; and

(6) Personal consultations from a program employee or volunteer concerning mental health or addiction treatment as appropriate for each individual requesting services.

(c)(1) It is an exception to the application of title 39, chapter 17, part 4, if an employee, volunteer, or participant of a program established pursuant to this section possesses any of the following:

(A) Needles, hypodermic syringes, or other injection supplies obtained from or returned to a program established pursuant to this section; or

(B) Residual amounts of a controlled substance contained in a used needle, used hypodermic syringe, or used injection supplies obtained from or returned to a program established pursuant to this section.

(2)(A) The exception provided in this subsection (c) shall apply only if the person claiming the exception provides written verification that a needle, syringe, or other injection supplies were obtained from a needle and hypodermic syringe exchange program established pursuant to this section. For a participant in the program, this exception shall only apply to possession when the participant is engaged in the exchange or in transit to or from the exchange.

(B) In addition to any other applicable immunity or limitation on civil liability, a law enforcement officer who, acting on good faith, arrests or charges a person who is thereafter determined to be entitled to immunity from prosecution under this section shall not be subject to civil liability for the arrest or filing of charges.

(3) In addition to any other applicable immunity or limitation on civil liability, a nongovernmental organization and an employee or volunteer of that organization are not subject to civil liability for establishing, operating, or participating in a program established pursuant to this section in the absence of gross negligence or willful, intentional, or malicious conduct.

(d) Prior to commencing operations of a program established pursuant to this section and obtaining approval from the department of health as required by subsection (a), the county or district health department pursuant to subsection (i) or the nongovernmental organization shall report to the department of health all of the following information:

(1) The legal name of the organization or agency operating the program;

(2) The areas and populations to be served by the program; and

(3) The methods by which the program will meet the requirements of subsection (b).

(e) Not later than one (1) year after commencing operations of a program established pursuant to this section, and every twelve (12) months thereafter, each county or district health department pursuant to subsection (i) or organization operating such a program shall report the following information to the department of health:

(1) The number of individuals served by the program;

(2) The number of needles, hypodermic syringes, and needle injection supplies dispensed by the program and returned to the program;

(3) The number of naloxone kits distributed by the program; and

(4) The number and type of treatment referrals provided to individuals served by the program, including a separate report of the number of individuals referred to programs that provide access to naloxone that is approved by the federal food and drug administration for the treatment of a drug overdose.

(f) The department of health shall annually compile a report containing the information submitted to the department pursuant to subsection (e) and submit the report to the members of the general assembly.

(g)(1) Except as otherwise provided in subdivision (g)(2), a program established pursuant to this section shall not conduct an exchange within two thousand feet (2,000') of any school or public park.

(2) A program established pursuant to this section shall not conduct an exchange within one thousand feet (1,000′) of any school or public park. This subdivision (g)(2) applies only to a:

(A) County having a metropolitan form of government with a population of more than five hundred thousand (500,000), according to the 2010 federal census or any subsequent federal census; and

(B) Municipality with a population in excess of one hundred sixty-five thousand (165,000), according to the 2010 federal census or any subsequent federal census.

(h) The commissioner of health is authorized to promulgate rules to effectuate the purposes of this section. The rules shall be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(i) On a petition to a county health department under chapter 2, part 6 of this title, or a district health department under chapter 2, part 7 of this title, by a county legislative body for the establishing and operating of a needle and hypodermic syringe exchange program in the petitioning county, the county or district health department may subsequently seek approval of the department of health under subsection (a) to establish and operate a needle and hypodermic syringe exchange program in the petitioning county.

(j) Needle and hypodermic syringe exchange programs established under subsection (i) shall be funded entirely by the county legislative body making petition to the county or district health department.

68-1-137. Program established to provide access to voluntary reversible long-acting contraception.

(a) As used in this section:

(1) "Family planning centers" means health clinics that receive funding under the Title X program overseen by the United States department of health and human services, Pub. L. 91-572, as well as other health clinics that the commissioner of health finds are qualified and willing to perform comprehensive family planning services; and

(2) "Voluntary reversible long-acting contraception" or "VRLACs," also known as "long-acting reversible contraceptives" or "LARCs," means highly effective methods of contraception that last for several years and are easy to use. VRLACs include, but are not limited to, intrauterine contraceptives and birth control implants.

(b)(1) The department of health shall administer a program to improve access to VRLACs for women.

(2) The program shall include:

(A) Training for family planning centers regarding contraceptive methods, including VRLACs, client-centered and non-coercive counseling strategies, and managing side effects;

(B) Training for all public health facilities to ensure that they are qualified and able to provide forms of contraception, including VRLACs;

(C) Assistance to family planning centers regarding administrative or technical issues such as coding, billing, pharmacy rules, and clinic management related to the provision of forms of contraception, includ-

ing VRLACs and other methods;

(D) General financial support to expand the capacity of family planning centers to provide VRLACs, to train and staff providers, and to keep supplies in stock and available for same-day access by patients;

(E) Education and outreach to the public about the availability, effectiveness, and safety of contraception including VRLAC;

(F) Education and outreach to the public to inform women about alternatives to abortion, including adoption services, and the numerous public and private agencies and services that are available to assist women during pregnancy and after the birth of the child;

(G) Compiling a list of the contraceptive methods available for both over-the-counter and directly through pharmacies, as California and Oregon have done; and

(H) Other services the commissioner of health deems necessary to improve access to comprehensive family planning options.

(c) Implementation and the continuation of the program established in this section is subject to the availability of federal funds made available to the state for that purpose.

68-1-138. Prohibited offer or payment, or offer or solicitation, of commission for referral of patient or patronage with respect to alcohol or drug services.

(a) A healthcare facility or provider licensed under this title, with respect to alcohol and drug services, as defined in § 33-2-402, shall not knowingly:

(1) Offer or pay a commission, benefit, rebate, kickback, or bribe, directly or indirectly, in cash or in kind, or engage in any split-fee arrangement, in any form whatsoever, to induce the referral of a patient or patronage to or from a licensee or facility licensed under title 33, chapter 2, part 4;

(2) Solicit or receive a commission, benefit, rebate, kickback, or bribe, directly or indirectly, in cash or in kind, or engage in any split-fee arrangement, in any form whatsoever, in return for referring a patient or patronage to or from a licensee or facility licensed under title 33, chapter 2, part 4;

(3) Solicit or receive a commission, benefit, rebate, kickback, or bribe, directly or indirectly, in cash or in kind, or engage in any split-fee arrangement, in any form whatsoever, in return for the acceptance or acknowledgment of treatment from a licensee or facility licensed under title 33, chapter 2, part 4; or

(4) Aid, abet, advise, or otherwise participate in the conduct prohibited under subdivision (a)(1), (a)(2), or (a)(3).

(b) Any healthcare facility or provider licensed under this title, with respect to alcohol and drug services, that violates this section is subject to suspension or revocation of the healthcare facility's or provider's license by the appropriate licensing board and the imposition of civil penalties as authorized under this title.

68-1-1103. Implementation.

In order to implement this part, the commissioner of health shall:

(1) Promulgate rules and regulations in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, as may be necessary to obtain in proper form all information relating to the occurrence

of a sudden, unexplained child death that is relevant and appropriate for the establishment of a reliable statistical index of the incidence, distribution and characteristics of cases of sudden, unexplained child death;

(2) Promulgate rules and regulations in accordance with the Uniform Administrative Procedures Act that establish minimum standards for conducting and completing an investigation, including an autopsy if deemed necessary, into the sudden, unexplained death of any child from birth to age seventeen (17). Initial rules promulgated pursuant to this subdivision (2) are authorized to be promulgated as emergency rules, pursuant to § 4-5-208. In promulgating the rules, the commissioner may rely, in whole or in part, on any nationally recognized standards regarding such investigations. Compliance with the rules shall make county governments eligible for reimbursement, to the extent authorized by those rules, of the costs of any autopsy deemed necessary;

(3) Collect factual information from physicians, coroners, medical examiners, hospitals, and public health officials who have examined any child known or believed to have experienced sudden, unexplained death; provided, that no information shall be collected or solicited that reasonably could be expected to reveal the identity of the child;

(4) Make information collected pursuant to subdivision (3) available to physicians, coroners, medical examiners, hospitals, public health officials, and educational and institutional organizations conducting research as to the causes and incidence of sudden, unexplained child death;

(5) Cause appropriate counseling services to be established and maintained for families affected by the occurrence of sudden infant death syndrome;

(6) Conduct educational programs to inform the general public of any research findings that may lead to the possible means of prevention, early identification, and treatment of sudden infant death syndrome; and

(7) Develop educational literature to inform the general public of the risks and prevalence of sudden infant death syndrome and other infant sleep-related deaths that are sometimes mislabeled as sudden infant death syndrome, so that such information may lead to the possible means of prevention. The commissioner shall make the literature set out in this subdivision (7) available on the department of health's website.

68-1-1301. Short title.

This part shall be known and may be cited as the "Down Syndrome Information Act of 2018."

68-1-1302. Part definitions.

As used in this part:

(1) "Department" means the department of health; and

(2) "Down syndrome" means a chromosomal condition caused by an error in cell division that results in the presence of an extra whole or partial copy of chromosome 21.

68-1-1303. Information regarding Down syndrome to be made available.

(a) The department shall, within existing resources, make available up-to-date, evidence-based information about Down syndrome. The online information must include:

(1) Information regarding first-call programs;

(2) Links to organizations providing information and resources related to Down syndrome; and

(3) Other educational and support programs.

(b) The department may make available this information on the department's website.

(c) The intent of this section is to make information available to individuals who render prenatal care, postnatal care, or genetic counseling to any person who has received a prenatal or postnatal diagnosis of Down syndrome.

68-1-1304. Positive test result for Down syndrome — Information provided to expectant or new parent.

(a) A healthcare provider who renders prenatal or postnatal care or a genetic counselor who renders genetic counseling may, upon receipt of a positive test result from a test for Down syndrome, provide the expectant or new parent with the information provided by the department under this part.

(b) Nothing in this section creates a duty of care or other legal obligation beyond the requirements set forth in this section.

68-1-2101. [Expired.]

68-1-2102. [Expired.]

68-1-2103. [Expired.]

68-1-2104. [Expired.]

68-3-502. Death registration.

(a)(1) A death certificate for each death that occurs in this state shall be filed with the office of vital records or as otherwise directed by the state registrar within five (5) days after death and prior to final disposition, or as prescribed by regulations of the department. It shall be registered, if it has been completed and filed in accordance with this section.

(2) If the place of death is unknown but the body is found in this state, the death certificate shall be completed and filed in accordance with this section. The place where the body is found shall be shown as the place of death. If the date of death is unknown, it shall be determined by the date the body was found.

(3) When death occurs in a moving conveyance in the United States and the body is first removed from the conveyance in this state, the death shall be registered in this state and the place where it is first removed shall be considered the place of death. When a death occurs on a moving conveyance while in international waters or airspace or in a foreign country and the body is first removed from the conveyance in this state, the death shall be registered in this state; but the certificate shall show the actual place of

death insofar as can be determined.

(b) The funeral director, or person acting as funeral director, who first assumes custody of the dead body shall file the death certificate. The funeral director shall obtain the personal data from the next of kin or the best qualified person or source available, and shall obtain the medical certification from the person responsible for medical certification, as set forth in subsection (c).

(c)(1) The medical certification shall be completed, signed and returned to the funeral director by the physician in charge of the patient's care for the illness or condition that resulted in death within forty-eight (48) hours after death, except when inquiry is required by the county medical examiner. In the absence of the physician, the certificate may be completed and signed by another physician designated by the physician or by the chief medical officer of the institution in which the death occurred. In cases of deaths that occur outside of a medical institution and are either unattended by a physician or not under hospice care, the county medical examiner shall investigate and certify the death certificate when one (1) of the following conditions exists:

(A) There is no physician who had attended the deceased during the four (4) months preceding death, except that any physician who had attended the patient more than four (4) months preceding death may elect to certify the death certificate if the physician can make a good faith determination as to cause of death and if the county medical examiner has not assumed jurisdiction; or

(B) The physician who had attended the deceased during the four (4) months preceding death communicates, orally or in writing, to the county medical examiner that, in the physician's best medical judgment, the patient's death did not result from the illness or condition for which the physician was attending the patient.

(2) Sudden infant death syndrome shall not be listed as the cause of death of a child, unless the death meets the definition set forth in chapter 1, part 11 of this title.

(3)(A) In addition to this section, prior to signing medical certification of the cause of death, the physician, chief medical officer or medical examiner shall require screening x-rays of the skull, long bones and chest of any child who was not subject to an autopsy and who died of unknown causes or whose death is suspected to be from sudden infant death syndrome.

(B) The physician, chief medical officer or medical examiner who orders the x-ray examinations pursuant to this section shall be entitled to a reasonable fee as set by the commissioner of health for the costs of the x-ray examinations, to be paid from the funds allotted to the postmortem examiners program in the department of health.

(d) When inquiry is required, the medical examiner shall determine the cause of death and shall complete and sign the medical certification within forty-eight (48) hours after taking charge of the case. On or before January 1, 2013, the commissioner of health shall establish by rule a protocol for use by medical examiners in cases involving death resulting from opiate, illegal or illicit drug overdose, that requires an appropriate report under § 38-7-108. The commissioner is authorized to promulgate such rules in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(e) If the cause of death cannot be determined within forty-eight (48) hours after death, the medical certification shall be completed as provided by regulation. The attending physician or medical examiner shall give the funeral

director, or person acting as funeral director, notice of the reason for the delay; and final disposition of the body shall not be made until authorized by the attending physician or medical examiner.

(f) If the death occurs in a military or veteran's hospital or in a state veteran's home in the state of Tennessee, the death certificate may be signed by the attending physician who holds a license in another state.

(g) In the event a person is dead on arrival at a military or veteran's hospital or at a state veteran's home in the state of Tennessee, the death certificate may be signed by a physician who is employed by one (1) of these institutions and who holds a license in another state.

(h) The form for a certificate of death shall contain a place for the recording of the deceased's social security number and the social security number shall be recorded on the certificate and on any forms necessary to prepare the certificate.

(i)(1) When a county medical examiner suspects that suicide may be a potential manner of death, the medical examiner is encouraged to consult the decedent's treating mental health professional, if known or applicable, prior to determination of manner of death.

(2)(A) If, after inquiry by the county medical examiner pursuant to title 38, chapter 7, part 1, the medical examiner determines a decedent's manner of death to be suicide and the deceased's next of kin disputes the manner of death determination on the death certificate, the next of kin may seek reconsideration of the manner of death determination.

(B) To seek reconsideration pursuant to subdivision (i)(2)(A), the next of kin must submit a written request for reconsideration to the county medical examiner who signed the death certificate, the chief medical examiner of the regional forensic center where the autopsy was performed, and the commissioner of health, stating the nature and reasons for the reconsideration. If the county medical examiner who signed the death certificate is no longer the county medical examiner, then the notice shall be sent to the current county medical examiner instead. The written request for reconsideration must be submitted within one (1) year of the date the death certificate is filed with the office of vital records and must be supported by a signed affidavit.

(3) Within thirty (30) days after receiving written notice of the reconsideration request pursuant to subdivision (i)(2)(B), the county medical examiner shall meet with the requesting next of kin. The meeting shall be either in person or via teleconference, at the discretion of the requesting next of kin. At the meeting, each party shall present the reasons supporting their position with respect to the manner of death, including any relevant documentation. The county medical examiner shall make a written determination on the reconsideration within thirty (30) days after the reconsideration meeting and shall notify the requesting next of kin, the chief medical examiner of the regional forensic center where the autopsy was performed, and the commissioner of health in writing. If the medical examiner who signed the medical certification is no longer in a position as county medical examiner, then the current county medical examiner shall participate in the reconsideration meeting and issue the written determination on the reconsideration instead.

(4) If, after reconsideration made pursuant to subdivision (i)(3), the county medical examiner finds a change in the manner of death determina-

tion is warranted, the county medical examiner shall file an affidavit within thirty (30) days directing the office of vital records to issue an amended death certificate to reflect the county medical examiner's findings as to manner of death.

(5)(A) If, after reconsideration made pursuant to subdivision (i)(3), the county medical examiner does not find that a change in the manner of death is warranted and the determination of manner of death is still disputed by the requesting next of kin, the requesting next of kin may seek further review of the determination by petitioning the chief medical examiner of the regional forensic center in which the autopsy was performed, on a form prescribed by the department of health, to review the medical records, hospital records, death certificate, investigative reports, and any other documentary evidence deemed necessary of the deceased. The chief medical examiner of the regional forensic center shall respond to the requesting next of kin detailing the findings within thirty (30) days with a written report. The report shall state whether the chief medical examiner of the regional forensic center agrees with the determination of manner of death on the death certificate, and, if the chief medical examiner of the regional forensic center disagrees with the determination of manner of death on the death certificate, the report shall detail those findings and the basis for the disagreement. The report shall be sent to the next of kin and the commissioner of health.

(B) If the chief medical examiner of the regional forensic center finds a change in the manner of death determination is warranted, the chief medical examiner shall file an affidavit within thirty (30) days directing the office of vital records to issue an amended death certificate to reflect the chief medical examiner's findings as to manner of death.

(6)(A) If, after review by the chief medical examiner of the regional forensic center made pursuant to subdivision (i)(5), the determination of manner of death is unchanged, then the requesting next of kin may seek mediation with the chief medical examiner of the regional forensic center with a Rule 31 mediator under the Rules of the Supreme Court of Tennessee, at the sole expense of the requesting next of kin.

(B) If the chief medical examiner of the regional forensic center finds a change in the manner of death determination is warranted following mediation, the chief medical examiner shall file an affidavit within thirty (30) days directing the office of vital records to issue an amended death certificate to reflect the chief medical examiner's findings as to manner of death.

(7) The department of health shall maintain a notice of decedents' next of kin rights with regard to this subsection (i) on its public website.

(8) As used in this subsection (i), "next of kin" means the person who has the highest priority pursuant to § 62-5-703.

(9) This subsection (i) applies only when the manner of death is determined to be suicide.

(10) Unrelated parties have no liability for relying on the original death certificate, without regard to subsequent revision under this part.

68-3-512. Death determination and pronouncement by physician assistant.

The determination and pronouncement of death may be made by a physician

assistant licensed under title 63, chapter 19, part 1, so long as this task is expressly included in the written protocol developed jointly by the physician assistant and the collaborating physician setting forth the range of services that may be performed by that physician assistant.

68-3-701. Short title. [Effective on January 1, 2019. Effective until June 30, 2021.]

This part shall be known and may be cited as the "Suicide Prevention Act of 2018."

68-3-702. Part definitions. [Effective on January 1, 2019. Effective until June 30, 2021.]

As used in this part:

(1) "Department" means the department of health;

(2) "Suicide" means a death caused by self-directed injurious behavior with any intent to die because of the result of the behavior; and

(3) "Suicide mortality" means the number of deaths within this state and the proportion of those deaths to the number of total deaths over the course of a year.

68-3-703. Suicide prevention program. [Effective on January 1, 2019. Effective until June 30, 2021.]

(a) The commissioner of health is authorized to create the Tennessee suicide prevention program.

(b) The department shall establish a team that shall:

(1) Compile existing data on suicide deaths;

(2) Review existing resources and programs related to suicide prevention;

(3) Identify evidence-based or promising practices related to the prevention of suicide;

(4) Convene relevant stakeholders to review existing data and existing programs and resources and identify opportunities to improve data collection and analysis and programming; and

(5) Submit a report to the general assembly no later than June 30, 2020, recommending any necessary programs or policies to prevent suicide deaths in this state.

68-11-207. Suspension or revocation of license — Grounds — Procedure — Probation.

(a) The board may suspend or revoke the license issued under this part on any of the following grounds:

(1) A violation of this part or of the rules and regulations or minimum standards issued pursuant to this part, or, in the event of a nursing home that has entered into an agreement with the department to furnish services under Title XVIII or XIX of the Social Security Act, compiled in 42 U.S.C. § 1395 et seq. and 42 U.S.C. § 1396 et seq., respectively, any of the requirements for participation in the medical assistance program set out in title 42 of the Code of Federal Regulations, to such an extent that the board considers the licensee a chronic violator;

(2) Permitting, aiding or abetting the commission of any illegal act in such

institutions; or

(3) Conduct or practice found by the board to be detrimental to the welfare of the patients in such institutions.

(b) [Deleted by 2018 amendment.]

(c) In imposing the sanctions authorized in this section, the board may consider all factors that it deems relevant, including, but not limited to, the following:

(1) The degree of sanctions necessary to ensure immediate and continued compliance;

(2) The character and degree of impact of the violation on the health, safety and welfare of the patients in the facility;

(3) The conduct of the facility against whom the notice of violation is issued in taking all feasible steps or procedures necessary or appropriate to comply or correct the violation; and

(4) Any prior violations by the facility of statutes, regulations or orders of the board.

(d) The board may, in its discretion, after the hearing, hold the case under advisement and make a recommendation as to requirements to be met by the facility in order to avoid either suspension or revocation of license or suspension of admissions.

(e) The board shall promulgate regulations defining the sanction structure and associated penalties.

(f)(1) In addition to the authority granted in subsections (a)-(e) and in § 68-11-252, the board shall have the authority to place a facility on probation. In the case of a nursing facility, to be considered for probation, a nursing facility must have had at least two (2) separate substantiated complaint investigation surveys within six (6) months, where each survey had at least one (1) deficiency cited at the level of substandard quality of care or immediate jeopardy, as those terms are defined at 42 CFR 488.301. None of the surveys may have been initiated by an unusual event or incident self-reported by the nursing facility.

(2) If a facility meets the criteria for a violation pursuant to regulations established by the board or, in the case of a nursing facility, meets the criteria pursuant to subdivision (f)(1), the board may hold a hearing at its next regularly scheduled meeting to determine if the facility should be placed on probation. Prior to initiating the hearing, the board shall provide notice to the facility detailing what specific noncompliance the board has identified that the facility must respond to at the probation hearing.

(3) Prior to imposing probation, the board may consider and address in its findings all factors that it deems relevant, including, but not limited to, the following:

(A) What degree of sanctions is necessary to ensure immediate and continued compliance;

(B) Whether the noncompliance was an unintentional error or omission, or was not fully within the control of the facility;

(C) Whether the facility recognized the noncompliance and took steps to correct the identified issues, including whether the facility notified the department of the noncompliance, either voluntarily or as required by state law or regulations;

(D) The character and degree of impact of the noncompliance on the health, safety and welfare of the patient or patients in the facility;

(E) The conduct of the facility in taking all feasible steps or procedures necessary or appropriate to comply or correct the noncompliance; and

(F) The facility's prior history of compliance or noncompliance.

(4) If the board places a facility on probation, the facility shall detail in a plan of correction those specific actions that, when followed, will correct the noncompliance identified by the board.

(5) During the period of probation, the facility shall make reports on a schedule determined by the board. These reports shall demonstrate and explain to the board how the facility is implementing the actions identified in its plan of correction. In making such reports, the board shall not require the facility to disclose any information protected as privileged or confidential under any state or federal law or regulation.

(6) The board is authorized at any time during the probation to remove the probational status of the facility's license, based on information presented to it showing that the conditions identified by the board have been corrected and are reasonably likely to remain corrected.

(7) The board shall rescind the probational status of the facility, if it determines that the facility has complied with its plan of correction as submitted and approved by the board, unless the facility has additional noncompliance that warrants an additional term of probation.

(8) A single period of probation for a facility shall not extend beyond twelve (12) months. If the board determines during or at the end of the probation that the facility is not taking steps to correct noncompliance or otherwise not responding in good faith pursuant to the plan of correction, the board may take any additional action as authorized by law.

(g) The hearing to place a facility on probation and judicial review of the board's decision shall be in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(h) This section in no way relieves any party from the responsibility to report suspected adult abuse, neglect or exploitation to, or to share information with, the adult protective services program in accordance with the Tennessee Adult Protection Act, compiled in title 71, chapter 6, part 1.

(i) After determinations of violations have been made that are subsequent to any complaint investigation survey that could lead to a suspension or revocation of the license of a nursing home or the loss of federal funds relating to any agreement to furnish services by a nursing home under Title XVIII, compiled in 42 U.S.C. § 1395 et seq. or Title XIX, compiled in 42 U.S.C. § 1396 et seq., of the Social Security Act, and unless the immediate protection of the health and safety of the residents of a nursing home requires otherwise, the department shall seek to provide, if practicable, a period of up to thirty (30) days for further fact finding relative to violations and their correction before any findings that would require the suspension or revocation of license or the loss of federal funds.

(j)(1) Homes for the aged, traumatic brain injury residential homes, assisted care living facilities, and adult care homes shall inform residents verbally and in writing of their right to file a complaint with the state at any time, the process for filing a complaint, and contact information for filing a complaint. The facility shall also advise residents of the availability of a long-term care ombudsman and how to contact the ombudsman for assistance. Verbal and written communication to the resident must indicate, at a minimum, that complaints regarding suspected adult abuse, neglect, or exploitation must be

reported to the adult protective services program. Complaints regarding licensure must be reported to the board. All other complaints must be reported to the appropriate state designated oversight entity. Complaints received by a home for the aged, traumatic brain injury residential home, assisted care living facility, or adult care home provider regarding suspected adult abuse, neglect, exploitation, or misappropriation must be forwarded to the appropriate state oversight entity.

(2) A facility licensed pursuant to this part shall not prohibit or discourage the filing of complaints or use intimidation against any person filing a complaint.

(3) A facility licensed pursuant to this part shall not retaliate against the resident or the person acting on behalf of the resident in any way. Such nonpermissible actions include, but are not limited to:

(A) Increasing charges;

(B) Decreasing services, rights, or privileges;

(C) Taking or threatening to take any action to coerce or compel the resident to leave the facility; or

(D) Harassing, abusing, or threatening to harass or abuse a resident in any manner.

(4) Persons acting in good faith in filing a complaint are immune from any liability, civil or criminal.

(5) A facility licensed pursuant to this part shall place a resident manager, substitute caregiver, or employee against whom an allegation of abuse, neglect, or exploitation has been made on administrative leave of absence until the investigation is complete.

(6) Investigations must be completed by the appropriate state oversight entity within time frames established in applicable statutes or regulations, or as expeditiously as necessary to ensure the health, safety, and welfare of residents.

(7) Board administrative staff shall maintain a file of reported complaints. The file must include the name of the facility against whom the complaint is filed, the date the complaint is filed, the action taken by the board, if any, on the complaint, and the date of the action taken.

68-11-210. Inspections — Reports — Federal accreditation exemption.

(a)(1) Unless exempt under subdivision (c)(5), every facility licensed under this part as an adult care home, ambulatory surgical treatment center, assisted care living facility, home for the aged, hospice, hospital, nursing home, residential hospice, or traumatic brain injury residential home shall be inspected within fifteen (15) months following the date of the last inspection. All other facilities for which a license has been issued shall be inspected within three (3) years following the date of the last inspection. All inspections shall be conducted by a duly appointed representative of the department under the rules promulgated under this part.

(2) Inspection reports shall be prepared on forms prescribed by the department.

(3) No institutions or agencies licensed pursuant to this part shall be required to be inspected or licensed under the laws of this state relative to hotels, restaurants, lodging houses, boardinghouses and places of refreshment.

(4) Adult care homes are subject to the following inspection standards:

(A) The board shall inspect an adult care home prior to issuing an initial license.

(B) The board shall conduct an unannounced inspection of an adult care home in accordance with subdivision (a)(1).

(C) The board shall be permitted access to enter and inspect any adult care home upon the receipt of an oral or written complaint, any time the board has cause to believe that an adult care home is operating without a license, or any time there exists a perceived threat to the health, safety or welfare of any resident.

(5) Traumatic brain injury residential homes are subject to the following inspection standards:

(A) The board shall inspect a traumatic brain injury residential home prior to issuing an initial license;

(B) The board shall conduct an unannounced inspection of a traumatic brain injury residential home in accordance with subdivision (a)(1); and

(C) The board shall be permitted access to enter and inspect any traumatic brain injury residential home upon the receipt of an oral or written complaint, any time the board has cause to believe that a traumatic brain injury residential home is operating without a license, or any time there exists a perceived threat to the health, safety or welfare of any resident.

(b)(1)(A) Each facility licensed pursuant to this title and performing more than fifty (50) surgical abortions in a year shall conduct a mandatory interim assessment of the facility's compliance with quality measures as specified by the board, in addition to regular inspections conducted pursuant to this section.

(B) Such mandatory interim compliance assessment shall include contents prescribed by the board.

(C) The facility shall develop a plan of correction with appropriate time for correction of any deficiency discovered in connection with an interim assessment and shall submit the plan of correction to the department.

(D) The department is authorized to accept the plan or timeline for correction or to request changes in the plan of correction or the timeline for compliance.

(2)(A) Each facility licensed pursuant to this title and performing more than fifty (50) surgical abortions in a year shall report sentinel events.

(B) The board shall provide interpretive guidelines to facilities regarding the meaning of sentinel event.

(C) The department is authorized to require the facility to provide a plan of correction for preventing future occurrence of the reported sentinel event.

(3) In addition to reporting sentinel events, each facility in which a surgical abortion is performed shall make and maintain a record of the disposition of the aborted fetus or aborted fetal tissue as required in § 68-3-505(a) and shall produce such records at the time of an inspection of the facility and upon request from the department.

(4) Failure to comply with this subsection (b) shall be grounds for discipline by the board pursuant to this chapter.

(c)(1) The purpose of this subsection (c) is to require that state agencies, including the department of human services or the department of children's

services, the department of health, and those agencies with which each contracts, who perform surveys, inspections and investigations of health care facilities, do not duplicate their procedures or subject such health care facilities to duplicate rules and regulations.

(2) For the purposes of this subsection (c), unless the context otherwise requires:

(A) "Health care facility" includes hospital, recuperation center, nursing home, birthing center, prescribed child care center, home for the aged, residential HIV supportive living facility, assisted-care living facility, adult care home and traumatic brain injury residential home, as defined in this part; and

(B) "Inspection" means all surveys, inspections, investigations and other procedures necessary for a state agency, or a division or unit of a state agency, to perform in order to carry out various obligations imposed on such agency by applicable state and federal law and regulations.

(3)(A) State agencies shall make, or cause to be made, only such inspections necessary to carry out the various obligations imposed on such agencies by applicable state and federal law and regulations.

(B) Any on-site inspection by a state agency, division licensing board, or unit thereof, that substantially complies with the inspection requirements of any other state agency, other division licensing boards, or unit of the inspecting agency charged with making similar inspections shall be accepted as an equivalent inspection, instead of an on-site inspection by such agency, division licensing board, or unit of the inspecting agency.

(C) The governor shall be authorized to coordinate the inspections of health care facilities by state agencies required to conduct such inspections.

(D) Notwithstanding this section or any other law to the contrary, the department shall conduct such on-site inspections and investigations as may be necessary to safeguard and ensure, at all times, the public's health, safety and welfare.

(E) The department shall conduct such inspections and investigations as may be necessary to appropriately respond to complaints received from the public and to immediately act upon any determination by the board that the public's health, safety or welfare is, or appears to be, threatened.

(4) The department, under part 1 of this chapter, the board, under this part, the Tennessee state board of examiners for nursing home administrators, under title 63, chapter 16, and any hospital authority, under title 7, chapter 57, shall conduct one (1) joint inspection for each licensing period or shall accept the investigation of one (1) of such entities, under subdivision (c)(3), unless otherwise required by federal law or regulation.

(5)(A) All health care facilities licensed by the department that have obtained accreditation from a federally recognized accrediting health care organization shall be deemed to meet all applicable licensing requirements. Such facilities may be subject to an inspection by the department and shall continue to be subject to subdivisions (c)(3)(D) and (E) but may be exempt from subdivision (a)(1) so long as the facility remains accredited.

(B) In order to be issued a license by the department, such hospitals shall be required to annually remit the statutory licensing fees and a copy of a letter of current accreditation and accompanying report from the joint

commission on accreditation of hospitals.

(C) The report shall be maintained as a confidential record pursuant to § 10-7-504.

(6) No licensure fee shall be reduced by this subsection (c).

(d) If a violation, citation, deficiency, or civil monetary penalty is found during the nursing home survey process, in which the violation is based upon an action or actions that are directly pursuant to a physician's order, the board of medical examiners' consultant, or the consultant's physician designee, shall be contacted for a consultation on the determination as to the medical necessity of the physician's order in question. The determination of medical necessity shall be based upon the recognized medical standards of practice and shall include, but not be limited to, a review of the physician's order, the date the order was given, the status of the patient at the time the actions occurred and the outcomes of the actions, the applicable state and federal regulations, and shall include contact between the consultant or designee and the treating physician or the facility's medical director. Any consultation between the consultant or designee and the treating physician or medical director must be completed within the time frames of the survey process. If it is determined that the violation is based upon or relates to a physician's order determined to be medically necessary, no violation, citation, deficiency, or civil monetary penalty shall be assessed against the facility and any deficiency cited in violation of this subsection (d) will be removed. The department shall report back to the board of medical examiners and the appropriate standing committees at the end of six (6) months regarding the effectiveness and the resources necessary to meet the requirements of this subsection (d).

(e) Any nursing home that files for federal bankruptcy protection shall immediately inform the commissioner of health regarding its financial condition and the status of the legal proceedings. In overseeing a facility that has filed for federal bankruptcy protection, the department of health shall follow any existing policies or regulations pertaining to any special inspection or oversight of such a facility. The fund established by § 68-11-827 may be used for the purpose of protecting the residents of such a nursing home, if the facility's noncompliance with the conditions of continued licensure, applicable state and federal statutes, rules, regulations and contractual standards threatens the residents' continuous care, the residents' property, the nursing home's continued operation, or the nursing home's continued participation in the medical assistance program of title 71, chapter 5. The commissioner shall inform the attorney general and reporter regarding the status of the legal proceedings.

(f)(1) When inspecting a hospital licensed under this title, the department shall include in its inspection a determination of the hospital's compliance with the reporting requirements of subdivision (f)(2). The hospital must document its compliance with a record of its communication with local law enforcement with respect to the commitments. A hospital's failure to comply with the reporting requirements shall subject the hospital to civil penalties or other action against the hospital's license under this part.

(2)(A) If a patient is involuntarily committed to inpatient treatment at a hospital licensed under this title, the hospital shall report the service recipient to local law enforcement as soon as practicable, but no later than the third business day following the date of such commitment, who shall report the service recipient to the federal bureau of investigation-NICS

Index and the department of safety as soon as practicable, but no later than the third business day following the date of receiving such notification, for the purposes of complying with the NICS Improvement Amendments Act of 2007, Public Law 110-180, as enacted and as may be amended in the future.

(B) If hospital is required to report pursuant to subdivision (f)(2)(A), the hospital shall report the following information:

(i) Complete name of the person involuntarily committed;

(ii) Date involuntary commitment was ordered;

(iii) Private or state hospital or treatment resource to which the individual was involuntarily committed;

(iv) Date of birth of the person involuntarily committed;

(v) Race and sex of the person involuntarily committed; and

(vi) Social security number of the person involuntarily committed.

(C) The information in subdivisions (f)(2)(B)(i)-(vi), the confidentiality of which is protected by other statutes or regulations, shall be maintained as confidential and not subject to public inspection pursuant to such statutes or regulations, except for such use as may be necessary in the conduct of any proceedings pursuant to §§ 39-17-1316, 39-17-1353, and 39-17-1354.

68-11-213. Injunctions and penalties — Promulgation of regulations.

(a)(1) The department is authorized to initiate proceedings seeking injunctive and any other form of relief available in law or equity against any person who owns, operates, manages or participates in the operation of or management of any facilities required to be licensed under this part, or any resident or residents in any facility required to be licensed under this part, without having the license required by this part.

(2) The department may also seek such relief against any person who owns, operates, manages or participates in the operation or management of any facility required to be licensed under this part, if such person or facility violates this part, rules, regulations or orders issued under this part, or terms and conditions of the license.

(3) Proceedings under this section may be initiated in the chancery court of Davidson County or the chancery court of the county in which all or part of the activities complained of occur.

(b) Based upon a complaint that a home for the aged, assisted-care living facility, adult care home or traumatic brain injury residential home, subject to licensure under this part may be operating without a license, the department, with consent of an owner, operator, manager, or person who participates in the operation, or patient or resident, or the guardian of the patient or resident, may enter the facility in order to investigate or inspect the complaint for the necessity of or compliance with licensure under this part.

(c) If consent is not obtained and the area sought to be inspected is a closed or non-public area, right of entry and inspection shall not be made by the department, unless a civil warrant, upon probable cause, is first obtained authorizing such entry or inspection.

(d) Inspections conducted pursuant to this section shall be conducted in a manner so as to minimize disruption.

(e) If a determination is made by the department that a facility or entity is

subject to the requirements of licensure under this part, a notice shall be issued by the department stating the determination and requiring that application for licensure must be made to the department within thirty (30) days of the receipt of that notice. The thirty-day application period does not serve to waive any civil penalties that may be assessed for unlicensed operation of a facility under this part.

(f) Failure of a facility or entity requiring licensure to make application to the department for licensure within thirty (30) days from the date of the receipt of the notice may result in the initiation of injunctive relief and any other relief available in law or equity against any person who owns, operates, manages, or participates in the management of a facility or entity.

(g) In addition to requiring that a facility or entity make application for licensure, the department may immediately initiate a petition for injunctive relief or any other relief available in law or equity. The department may direct the facility or entity to immediately cease and desist operations when the health, safety, or welfare of the patients or residents requires emergency action. If the facility or entity does not comply with the directive to cease and desist, then the department may initiate proceedings for injunctive relief and any other relief available in law or equity.

(h)(1) It is unlawful for any person to receive or accept any patient or patients or any resident or residents in any facility required to be licensed under this part without having applied for and obtained a license as required by this part.

(2) A violation of this requirement is a Class B misdemeanor.

(3) Each day of operation without a license constitutes a separate offense.

(i)(1) The department may assess a civil penalty not to exceed five thousand dollars ($5,000) against any person or entity operating an assisted care living facility, home for the aged, adult care home, or traumatic brain injury residential home without having the license required by this chapter. Each day of operation is a separate violation.

(2) The board for licensing health care facilities is authorized to establish as part of its comprehensive system of quality assurance and enforcement a system for assessing civil monetary penalties, including appropriate due process, for assisted care living facilities, homes for the aged, adult care homes, and traumatic brain injury residential homes that are in serious violation of state laws and regulations, resulting in endangerment to the health, safety, and welfare of residents.

(3) All penalties for adult care homes or traumatic brain injury residential homes shall be deposited by the department with the state treasurer to a general fund account specifically designated for the purpose of providing adult care home educational training programs and continuing education requirements for adult care home providers and traumatic brain injury residential home providers, resident managers, substitute caregivers and staff. The commissioner of finance and administration shall determine the appropriate use for these funds.

(4) Beginning one hundred eighty (180) days after the promulgation of regulations under this part by the department, the department may assess a civil penalty not to exceed three thousand dollars ($3,000) against any licensed assisted-care living facility for admitting or retaining residents not meeting the definition of assisted-care facility resident set forth in this chapter. Each such resident shall constitute a separate violation.

(j)(1) The department may assess a civil penalty not to exceed one thousand dollars ($1,000) against any person or entity operating a prescribed child care facility without the license required by this chapter or in violation of any other statute or regulation promulgated under this chapter. Each day of operation is a separate offense.

(2) The board is specifically authorized to promulgate regulations for the assessment and procedures to be used in the assessment of civil penalties against a prescribed child care center, including, but not limited to, a schedule of the minimum and maximum penalties, factors to be considered in making the assessment, procedures to be used in the assessment, appeals, and finality of assessments.

(3) The board is authorized to conduct contested cases regarding appeals of the penalties assessed pursuant to this subsection (j).

(k)(1) After notification of deficiencies following a licensure or complaint survey, any facility licensed under this part has ten (10) days from the date of notification to submit an acceptable plan of correction. Should the facility submit a plan of correction that is deemed unacceptable by the department, then the facility has an additional ten (10) days from the date of notification that the plan of correction is unacceptable to submit an acceptable plan of correction. The department shall provide a facility with no less than three (3) opportunities to submit an acceptable plan of correction and provide clear guidelines so that the facility understands what a plan of correction must include to be deemed acceptable.

(2) If a facility is not able to submit an acceptable plan of correction after three (3) attempts, then a representative from the facility shall appear before the board and submit a plan of correction for the board's approval.

(*l*) After receipt of an acceptable plan of correction, the department shall promptly revisit a facility or conduct an administrative review within fourteen (14) business days, unless waived by the facility or licensee, to determine whether the cited deficiencies have been corrected in accordance with the plan. If the same or different deficiencies are cited on the third revisit survey, then the department may pursue disciplinary action against the facility before the board, including seeking reimbursement for the unrecouped costs associated with subsequent revisit surveys that were incurred by the department.

68-11-221. Deficiencies in facilities—Special monitors.

During a suspension of admissions pursuant to § 68-11-252, the commissioner shall appoint one (1) or more special monitors, if the deficiency threatens serious bodily harm to the patients or residents of the facility. The commissioner may appoint a special monitor or monitors at any other time, if the commissioner has reason to believe that deficiencies exist in a facility that are detrimental to the direct care of the patients or residents. Whenever the appointment of monitors is utilized pursuant to this section, the commissioner shall appoint a sufficient number of monitors to ensure their presence in the facility for a minimum of twenty (20) hours per week. The monitors shall observe the operation of the facility, and shall submit written reports periodically to the commissioner on the operation of the facility. Persons appointed as monitors shall be duly qualified to discharge their responsibilities. While employed as monitors, they shall represent the department with the power to observe and review all of the facility's operation, with attention to those

aspects for which the suspension of admission was imposed. When appointment of a monitor or monitors is mandated by this section, the facility shall be liable for the costs of the special monitors, until it has been determined that the deficiencies have been corrected. No part of such costs for which a facility is liable shall be recoverable by the facility, either directly or indirectly, from the medical assistance program administered pursuant to title 71, chapter 5, part 1. The commissioner may retain a monitor in a facility after correction to evaluate the facility's continued compliance, but it shall be at the expense of the department. The costs of such monitors shall be recoverable as follows:

(1) Deduction of the amount of such costs from amounts otherwise due from the state to the facility and to remittance of such amounts to the department;

(2) Addition of such costs to the facility's licensing fee, the renewal of the facility's license to be contingent upon the prior payment of such costs; or

(3) By suit of the department in the circuit or chancery court to recover such costs.

68-11-242. Differentiation between licensed physicians based on maintenance of certification.

(a) For purposes of this section:

(1) "Maintenance of certification" means any process requiring periodic recertification examinations or other activities to maintain specialty medical board certification; and

(2) "Organized medical staff" means an organized body composed of individuals appointed by a facility's governing board that operates under bylaws approved by the governing body and is responsible for the quality of medical care provided to patients by the facility.

(b) Except as otherwise provided by this section, facilities licensed under this title may only differentiate between licensed physicians based on a physician's maintenance of certification in medical staff privileging and credentialing when authorized through the following process:

(1) The voting members of the facility's organized medical staff vote to adopt the differentiation; and

(2) The facility's governing body reviews and approves the action of the medical staff.

(c) An authorization described by subsection (b) may:

(1) Establish terms applicable to the facility's differentiation, including:

(A) Appropriate grandfathering provisions; and

(B) Limiting the differentiation to certain medical specialties; and

(2) Be rescinded at any time when:

(A) The voting members of the facility's organized medical staff vote to rescind the differentiating action; and

(B) The facility's governing body reviews and approves the rescinding action of the organized medical staff.

(d) Nothing in this section restricts a facility's ability to differentiate between physicians in medical staff privileging and credentialing based on a physician's maintenance of certification when:

(1) The facility's designation under law or certification or accreditation by a national certifying or accrediting organization is contingent on the facility requiring a specific maintenance of certification by physicians seeking staff

privileges or credentialing at the facility; and

(2) The differentiation is limited to those physicians whose maintenance of certification is required for the facility's designation, certification, or accreditation as described by subdivision (d)(1).

(e) Nothing in this section requires a facility's organized medical staff or governing body to reconsider or vote to reconsider maintenance of certification differentiation or requirements made prior to July 1, 2018.

68-11-243. Collection of out-of-network charges by healthcare facility.

(a) For the purposes of this section:

(1) "Emergency medical services" means the services used in responding to the perceived individual need for immediate medical care in order to prevent loss of life or aggravation of physiological or psychological illness or injury;

(2) "Healthcare facility" means a hospital as defined in § 68-11-201, or an ambulatory surgical treatment center as defined in § 68-11-201;

(3) "Healthcare provider" means a physician licensed pursuant to chapter 6 or 9 of title 63, who either is employed by a healthcare facility or contracts with a healthcare facility to provide medical services;

(4) "In-network healthcare facility" means a healthcare facility that has a current contract provider agreement with the insured's insurer;

(5) "Insured" means any person who has health insurance coverage as defined in § 56-7-109 through a health insurance entity as defined in § 56-7-109;

(6) "Out-of-network facility-based physician" means a physician:

(i) To whom a participating healthcare facility has granted clinical privileges;

(ii) Who provides services to patients of the participating healthcare facility pursuant to those clinical privileges; and

(iii) Who does not have a current contract provider agreement with the insured's insurer;

(7) "Stabilized" means the patient is no longer in need of emergency medical services; and

(8) "Transfer" means transporting a patient from one (1) location to another for medical services.

(b) Healthcare facilities are prohibited from collecting out-of-network charges from an insured, or the insurer on behalf of the insured, unless:

(1) The healthcare facility provides written notice to the insured, prior to medical services being provided, that contains the following:

(A) A statement that the insured agrees to receive medical services by the out-of-network facility and will receive a bill for the amount unpaid by the insured's insurer;

(B) A statement that the nonparticipating out-of-network facility-based physician may not have a current contract provider agreement with the insured's insurer and is an out-of-network provider;

(C) A statement that the insured agrees to receive medical services by an out-of-network provider and will receive a bill for the amount unpaid by the insured's insurer;

(D) If the healthcare facility is not in-network or otherwise a participating provider, the estimated amount that the facility will charge the

insured for items and services in excess of any cost sharing obligations that the insured would otherwise have under the insured's health benefits coverage for the items and services if the facility were in-network or otherwise participating in the coverage; and

(E) A listing of anesthesiologists, radiologists, emergency room physicians, and pathologists or the groups of such physicians with which the facility has contracted, including the physician or group name, phone number, and website, along with the following statement:

The physicians and other providers that may treat the patient at this facility may not be employed by this facility and may not participate in the patient's insurance network.

Anesthesiologists, radiologists, emergency room physicians, and pathologists are not employed by this facility. Services provided by those specialists, among others, will be billed separately.

Before receiving services, the patient should check with his or her insurance carrier to find out if the patient's providers are in-network. Otherwise, the patient may be at risk of higher out-of-network charges.

(2) The insured signs the written notice, acknowledging agreement to receive medical services by an out-of-network provider.

(c) Prior to admission or a scheduled medical procedure, a healthcare facility shall provide the insured with informational materials that include the following:

(1) The estimated amount that the facility will charge the insured for items and services provided by the facility in accordance with the insured's health benefits coverage for the items and services;

(2) A listing of anesthesiologists, radiologists, emergency room physicians, and pathologists or the groups of such physicians with which the facility is contracted, including the physician or group name, phone number, and website; and

(3) The following statement:

The patient will be billed for additional charges, including out-of-network charges, if the patient is provided medical services by a healthcare provider that is not in-network. In particular, the patient should ask the facility if he or she will be provided any medical services by anesthesiologists, radiologists, emergency room physicians, or pathologists who are not in the patient's network.

(d)(1) Except as provided in subdivision (d)(2) the notice required by subdivision (b)(1) must be provided to the insured, or the insured's personal representative, at the time of admission.

(2)(A) If the insured is receiving medical services through a hospital emergency department and is incapacitated or unconscious at the time of receiving those services, the notice will not be required at that time.

(B) In circumstances as described in subdivision (d)(2)(A), the written notice required by subdivision (b)(1) must be provided to the insured, or the insured's personal representative, after receiving medical services and within twelve (12) hours following stabilization. Information about a transfer to an in-network facility must also be provided with the written notice.

(e) The insured, or the insured's personal representative, must receive the

written notice required by subdivision (b)(1) from the facility before being transferred by an ambulance as defined in § 68-140-302 to another facility or physician for treatment of medical services unless the insured would be at risk of bodily injury by the facility giving the insured the notice. The written notice must provide information about the possibility of a transfer to an in-network facility if the in-network facility has similar treatment available to the insured and will not risk the insured's health.

(f) A bill to an insured from a healthcare provider or healthcare facility must contain a telephone number for the department and a clear and concise statement that the insured may call the department to complain about any out-of-network charges.

68-11-252. Suspension of admission to facilities detrimental to health, safety or welfare of patients or residents.

(a) The commissioner has the authority to suspend the admission of any new patients or residents to any facility or licensee in those cases where the commissioner has a factual basis upon which to believe that the conditions in any such facility or licensee are, or are likely to be, detrimental to the health, safety, or welfare of a patient or resident. For the purposes of this section, "facility or licensee" means any entity licensed under this part.

(b) The commissioner may suspend admissions pending a prompt hearing before the board, or an administrative judge if the board cannot be convened promptly.

(c) The commissioner shall initiate a suspension of admissions by delivering to the facility or licensee a notice stating the commissioner's decision to suspend the admissions of new patients. The commissioner's notice to suspend admissions must:

(1) Detail what conditions are considered detrimental to the health, safety, or welfare of the patients;

(2) Provide an explanation of the specific time frame when and conditions under which the facility or licensee can reasonably expect the suspension to be lifted; and

(3) Be received by the facility or licensee within ten (10) business days of the conclusion of the department's survey.

(d) Within ten (10) business days of the conclusion of the department's investigation, the department shall also mail to the facility or licensee the commissioner's order, which shall:

(1) Detail the alleged facts and pertinent law with particularity; and

(2) Inform the facility or licensee of its right to contest the action.

(e) The commissioner's suspension of admissions shall take effect on the next calendar day following the order provided to the facility or licensee, as provided for in subsection (d).

(f) Any facility or licensee subject to a suspension of admissions by the commissioner has the right to contest the factual or legal basis for a suspension of admission imposed against it through a prompt contested case hearing before the board, or an administrative judge if the board cannot be convened promptly.

(g) All contested cases pursuant to subsection (f) shall be conducted according to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, part 3, and shall be heard within thirty (30) days of the facility's or licensee's

request for a contested case, unless otherwise agreed to by both parties.

(h) An order in all cases contesting a suspension of admissions shall be issued within ten (10) business days after the hearing contesting the suspension of admissions, regardless of whether the hearing is conducted before the board or an administrative judge. The order must determine whether the suspension of admissions was initially valid and whether conditions at the facility or licensee continue to be detrimental to the health, safety, or welfare of a patient or resident to justify the continuation of the suspension of admissions if not previously lifted.

(i) The commissioner is authorized, at any time prior to a hearing, based on information presented to the commissioner showing that such conditions have been and will continue to remain corrected, to revoke the suspension of admissions.

(j) Within ten (10) days of receiving the commissioner's order to suspend admissions, any facility or licensee for which admissions have been suspended pursuant to this section shall submit a corrective action plan to the board delineating the measures to be taken to address violations and associated time frames. If it is deemed by the board to be necessary to ensure the health, safety, and welfare of patients or residents, the commissioner may require any facility or licensee for which admissions have been suspended to take all necessary actions to correct violations immediately. The board may also set a lesser time frame than ten (10) days for the facility or licensee to submit a corrective action plan when it deems necessary to ensure the health, safety, and welfare of residents.

(k) If the facility or licensee asserts that it has corrected the underlying conditions upon which the suspension of admissions is based, or if the facility or licensee complies with the conditions for the suspension to be lifted as set forth in the commissioner's order, the department shall verify such corrections, after receiving notice and evidence of such corrections from the facility or licensee, within fourteen (14) business days unless waived by the facility or licensee.

(l) Unless other specific conditions exist that warrant an additional suspension or continuation of the suspension of admissions, the commissioner shall promptly lift the suspension of admissions upon verification by the department that the facility or licensee has corrected the underlying conditions upon which the suspension of admissions is based or complied with the conditions for the suspension to be lifted.

(m) The board has the authority to:

(1) Continue, revoke, or modify the suspension of admissions; and

(2) Enter such other orders as it deems necessary.

(n) For any suspension of admissions of a nursing home under this section that is accompanied by a civil penalty under part 8 of this chapter, part 8 of this chapter shall control to the extent there is a conflict.

68-11-272. Patient safety and quality improvement — Burden of proving bad faith and malice.

(a) It is the policy of this state to encourage the improvement of patient safety, the quality of patient care and the evaluation of the quality, safety, cost, processes and necessity of healthcare services by hospitals, healthcare facilities and healthcare providers. Tennessee further recognizes that certain protections must be available to these entities to ensure that they are able to

effectively pursue these measures.

(b) As used in this section:

(1) "Healthcare organization" means any:

(A) Healthcare facility licensed or regulated under this title and any related system;

(B) Hospital licensed under this title and any related hospital system;

(C) Hospital licensed under title 33 and any related hospital system;

(D) Entity owning, owned by, affiliated with or providing ancillary or allied health services to, or on behalf of, a hospital, hospital system, or healthcare facility licensed or regulated under this title;

(E) Entity that contracts with a healthcare organization to perform any of the functions of a quality improvement committee;

(F) Entity that maintains a patient safety evaluation system in compliance with the Patient Safety and Quality Improvement Act of 2005, P.L. 109-41, as amended, for reporting to a patient safety organization listed as such by the federal secretary of health and human services pursuant to § 924 of the Patient Safety and Quality Improvement Act of 2005;

(G) Professional assistance program providing, or attempting to provide, intervention, counseling, referral or other assistance to any healthcare provider or family of a healthcare provider directly related to and including the alcohol or drug impairment of a healthcare provider;

(H) Professional healthcare foundation;

(I) Health maintenance organization, preferred provider organization, hospital and medical service corporation, or accountable care organization as defined by § 3022 of the federal Patient Protection and Affordable Care Act, P.L. 111-148, as amended;

(J) University medical school or health science center; or

(K) Community mental health center as defined in § 33-1-101;

(2) "Healthcare provider" means any healthcare professional licensed, authorized, certified or regulated under title 63 or this title, including, but not limited to, medical resident physicians, interns, and fellows participating in a training program of one (1) of the accredited medical schools or of one (1) of such medical school's affiliated teaching hospitals in this state, or any other clinical staff of a healthcare organization;

(3) "Hospital system" means two (2) or more hospitals that are subject to the control and direction of one (1) common owner, or an entity under a management contract, responsible for the operational decisions of the entire system or that have integrated administrative functions and medical staff that report to one (1) governing body as the result of a formal legal or contractual obligation;

(4) "Quality improvement committee" or "QIC" means a committee formed or retained by a healthcare organization, an activity of a healthcare organization, or one (1) or more individuals employed by a healthcare organization performing the types of functions listed in subdivisions (4)(A)-(P), the purpose of which, or one (1) of the purposes of which is to evaluate the safety, quality, processes, costs, appropriateness or necessity of healthcare services by performing functions including, but not limited to:

(A) Evaluation and improvement of the quality of healthcare services rendered;

(B) Determination that health services rendered were professionally indicated or were performed in compliance with the applicable standards

of care;

(C) Determination that the cost of health care rendered was reasonable;

(D) Evaluation of the qualifications, credentials, competence and performance of healthcare providers or actions upon matters relating to the discipline of any individual healthcare provider;

(E) Reduction of morbidity or mortality;

(F) Establishment and enforcement of guidelines designed to keep the cost of health care within reasonable bounds;

(G) Research;

(H) Evaluation of whether facilities are being properly utilized;

(I) Supervision, education, discipline, admission, and the determination of privileges of healthcare providers;

(J) Review of professional qualifications or activities of healthcare providers;

(K) Evaluation of the quantity, quality and timeliness of healthcare services rendered to patients;

(L) Evaluation, review or improvement of methods, procedures or treatments being utilized;

(M) Participation in utilization review activities, including participation in review activities within the facility or hospital system and activities in conjunction with an insurer or utilization review agent under title 56, chapter 6, part 7;

(N) The evaluation of reports made pursuant to § 68-11-211 and any internal reports related thereto or in the course of a healthcare organization's patient safety and risk management activities;

(O) Activities to determine the healthcare organization's compliance with state or federal regulations;

(P) Participation in patient safety activities as defined at § 921 of the Patient Safety and Quality Improvement Act of 2005;

(5) "Records" means records of interviews and all reports, incident reports, statements, minutes, memoranda, charts, statistics, evaluations, critiques, test results, corrective actions, disciplinary actions, and any and all other documentation generated by or in connection with activities of a QIC and any patient safety work product as defined at § 921 of the Patient Safety and Quality Improvement Act of 2005.

(c)(1) Records of a QIC and testimony or statements by a healthcare organization's officers, directors, trustees, healthcare providers, administrative staff, employees or other committee members or attendees relating to activities of the QIC shall be confidential and privileged and shall be protected from direct or indirect means of discovery, subpoena or admission into evidence in any judicial or administrative proceeding. Any person who supplies information, testifies or makes statements as part of a QIC may not be required to provide information as to the information, testimony or statements provided to or made before such a committee or opinions formed by such person as a result of committee participation.

(2) Any information, documents or records, which are not produced for use by a QIC or which are not produced by persons acting on behalf of a QIC, and are otherwise available from original sources, shall not be construed as immune from discovery or use in any judicial or administrative proceeding merely because such information, documents or records were presented during proceedings of such committee.

(3) A QIC may share information and documents, including complaints, incident reports, and testimony and statements by any person to the QIC, with one (1) or more other QICs as defined under this section or under § 63-1-150. Information and documents disclosed by one QIC to another QIC, and any information and documents created or maintained as a result of the sharing of such information and documents, shall be confidential, privileged and protected from direct or indirect means of discovery, subpoena or admission into evidence, to the same extent as provided in subdivision (c)(1). The QIC sharing such information with another QIC shall determine the manner and process by which it will share such information and documents, which process may include requiring a written agreement between QICs regarding the sharing of practitioner information. The QIC and its sponsoring healthcare organization shall not be held liable and are immune from suit for any disclosure or sharing of information in compliance with this section.

(d) No healthcare organization or its officers, trustees, directors, healthcare providers, administrative staff, employees, other committee members or attendees, or any person providing information to a QIC shall be held liable:

(1) In any action for damages or other relief arising from the provision of information to a QIC or in any judicial or administrative proceeding if the information is provided to the QIC in good faith and without malice and on the basis of facts reasonably known or reasonably believed to exist; or

(2) For damages resulting from any decisions, opinions, actions, and proceedings rendered, entered or acted upon by a QIC undertaken or performed within the scope or function of the duties of such committees or in any judicial or administrative proceeding, if made or taken in good faith and without malice and on the basis of facts reasonably known or reasonably believed to exist.

(e) Nothing in this section shall conflict with any federal protection of records provided under the federal Health Care Quality Improvement Act, compiled in 42 U.S.C. § 11101 et seq., or the federal Patient Safety Act.

(f) Any person providing information to a QIC is presumed to have acted in good faith and without malice. Any person alleging lack of good faith has the burden of proving bad faith and malice.

(g) All decisions, opinions, actions and proceedings rendered, entered or acted upon by a QIC are presumed to have been completed in good faith and without malice. Any person alleging lack of good faith has the burden of proving bad faith and malice.

68-11-802. Type A civil monetary penalties.

(a) Type A civil monetary penalties may be imposed whenever the commissioner finds the conditions in a nursing home are, or are likely to be, detrimental to the health, safety or welfare of the patients, and the commissioner has accompanied this finding by ordering the nursing home to suspend the admission of any new patients, as provided by § 68-11-252.

(b) No type A civil penalty may be imposed solely for a communicable disease where the nursing home has maintained an adequate quality of patient care and made reasonable efforts to prevent the spread of the communicable disease.

(c) The imposition of a type A civil penalty shall exclude the assessment of

type B or type C civil penalties for the specific violations contributing to these conditions.

68-11-812. Notice that violation is or may constitute basis of suspension of admissions or civil monetary penalty.

(a) Upon finding a violation that is, or may be, the basis of a suspension of admissions, as provided in § 68-11-252, or that is, or may be, the basis of a civil monetary penalty as set forth in §§ 68-11-801 — 68-11-805, the department inspector shall orally and in writing advise the nursing home of the findings before concluding the inspection or investigation. The written notification shall include an acknowledgement of both the findings and the state or federal penalties that could result from the findings.

(b) As soon as practicable after the department inspector advises the nursing home of finding a violation that is, or may be, the basis of a suspension of admissions, as provided in § 68-11-252, or that is, or may be, the basis of a civil monetary penalty as set forth in §§ 68-11-801 — 68-11-805, the commissioner shall provide notice of the apparent violation to the members of the senate and house of representatives of the general assembly in whose district the nursing home is located.

68-11-813. Initiation of type A penalty proceedings — Suspension of admissions — Contests — Hearings.

(a) Type A civil penalties shall be assessed by the commissioner in the commissioner's order suspending the admission of any new patients to the nursing home, as provided in § 68-11-252.

(b)(1) Within three (3) working days after concluding the inspection or investigation, the commissioner may initiate type A civil penalty proceedings by mailing a notice to the facility, stating the commissioner's decision to suspend the admissions of new patients.

(2) Within eight (8) working days after concluding the inspection or investigation, the department shall mail to the nursing home the commissioner's order, which shall detail the alleged facts and pertinent law with particularity, and shall also inform the nursing home of its right to contest the action.

(c) Should any nursing home exercise its right to a hearing in contest of both the assessment of a type A civil penalty and the suspension of admissions, the matters shall be consolidated for hearing before an administrative judge and, should reconsideration of the administrative judge's initial order be requested by either party pursuant to § 4-5-317, the matters may be separated with the board for licensing health care facilities reviewing the suspension of admissions and the civil penalty being reviewed as provided in §§ 68-11-811 — 68-11-820.

68-11-830. Intermediate care facilities for individuals with intellectual disabilities (ICF/IID) — Exercise of enforcement powers — Taxation.

(a) Notwithstanding any other law to the contrary, any and all enforcement powers and authority conferred by § 68-11-252 or by §§ 68-11-811 — 68-11-820 and 68-11-826 — 68-11-829 on the commissioner of health shall be

exercised by the commissioner of intellectual and developmental disabilities in the case of any facility that is both licensed by the department of intellectual and developmental disabilities, pursuant to title 33, chapter 2, part 4, and is also certified to participate in the medicare or medicaid medical assistance programs as an intermediate care facility for individuals with intellectual disabilities, (ICF/IID) as defined by 42 CFR 442.1 et seq.

(b) All powers and duties conferred by § 68-11-252 on the board for licensing health care facilities shall, for the limited purposes of this section, be exercised by the commissioner of intellectual and developmental disabilities.

(c) Before exercising the powers of §§ 68-11-811 — 68-11-820 and 68-11-826 — 68-11-829, the commissioner of intellectual and developmental disabilities shall first promulgate regulations identifying those standards pertinent to ICF/IIDs whose violation may justify the assessment of a civil monetary penalty, classifying those standards by type, and detailing the circumstances under which civil penalties may be imposed.

(d)(1) Each ICF/IID shall pay a tax as set forth in this subsection (d). Licensed facilities that are owned or operated by an agency of the state are not excluded from paying the tax.

(2) The tax shall be at the rate of five and one half percent (5.5%) of the monthly gross receipts of an ICF/IID operating in this state. The tax due from facilities that are not one hundred percent (100%) ICF/IID certified shall be based at the rate of five and one half percent (5.5%) of the monthly gross receipts generated from beds certified as intermediate care beds for individuals with intellectual disabilities in the facility. The tax shall be paid monthly based on the amount of the tax established in this subdivision (d)(2). The monthly payments are due on the fifteenth of each following month, beginning August 15, 1994, for the July 1994 payment, and ending with a final payment on July 15, 2017. It is the clear and unequivocal intent of the general assembly that this subdivision (d)(2) has retroactive application to January 1, 2008.

(3) The commissioner of health shall adopt rules and regulations governing the collection of such taxes. Notwithstanding any other law, the commissioner is authorized to promulgate such rules as emergency rules pursuant to the rulemaking provisions of the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(4) Any challenge to the tax imposed by this subsection (d) shall be brought pursuant to title 67, chapter 1, part 18 and § 9-8-307(a)(1)(O).

(5) All revenue collected pursuant to this subsection (d) shall be deposited in the general fund.

(6)(A) If any part of any tax imposed under this subsection (d) is not paid on or before the due date, a penalty of five percent (5%) of the amount due shall at once accrue and be added to such tax. Thereafter, on the first day of each month during which any part of any tax or any prior accrued penalty remains unpaid, an additional penalty of five percent (5%) of the then unpaid balance shall accrue and be added to such tax or prior accrued penalty. In addition, taxes under this subsection (d) not paid on the due date shall bear interest at the maximum lawful rate from the due date to the date paid. Payment shall be deemed to have been made upon date of deposit in the United States mail. The commissioner may, for good cause, approve an alternative payment plan as long as full payment of the tax is made.

(B) If an ICF/IID is more than sixty (60) days delinquent in paying its monthly amount, the commissioner of intellectual and developmental disabilities may initiate proceedings to revoke the license of the facility in accordance with the Uniform Administrative Procedures Act.

(C) If a facility is more than thirty (30) days delinquent in paying the amount of its tax or any installment of an alternative payment plan approved by the board or commissioner, the commissioner of health has the additional authority to deduct the amount owing from the facility's forthcoming medicaid payments and to notify the facility that it will be locked into a process by which the monthly installment will automatically be deducted from each month's medicaid payment for an appropriate period of time, as determined by the state. The facility will also be notified of an opportunity to request a hearing before the commissioner or the commissioner's designee to consider the sole issues of whether the amount of the tax was proper and whether the payment of the tax was more than thirty (30) days delinquent. If requested by the facility, this hearing shall be promptly held, but in no case shall the pendency of a hearing result in delay of the deductions envisioned in this subdivision (d)(6)(C).

(7) The tax imposed by this subsection (d) may not be billed by the ICF/IID as a separately stated charge, but this shall not prevent the ICF/IID from adjusting its rates to defray the cost associated with the tax.

(8) The fiscal review committee shall review and have oversight of the implementation of this subsection (d).

(9) Any tax obligation imposed by this subsection (d) shall be suspended to the extent that and for the period that receipt of the tax by the state results in a corresponding reduction in federal financial participation under Title XIX of the federal Social Security Act, compiled in 42 U.S.C. § 1396 et seq.

(10) The tax established by this subsection (d) shall terminate on July 15, 2017.

68-11-1003. Prerequisites to including name on registry — Notice to alleged perpetrator — Removal of name from registry.

(a)(1) Any state government agency that finds that an individual has committed abuse, neglect, or misappropriation or exploitation of the property of a vulnerable person shall notify the department of health concerning such individual in accordance with subdivision (a)(2). The department of health shall include the name of an individual on the registry when it receives notification from an agency of Tennessee state government that the individual has been found by that agency, pursuant to that agency's procedures and definitions, to have committed abuse, neglect, or misappropriation or exploitation of the property of a vulnerable person.

(2) Notification shall consist of a copy of an emergency, initial, or final administrative order, a judicial order, or other evidence indicating that the agency has afforded the individual an opportunity for an administrative due process hearing pursuant to the requirements of the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, part 3, or equivalent judicial or administrative procedures; provided, that nothing in this part shall require the state agency to establish any new procedures or to modify any existing procedures it may use for the provision of due process to the

individual.

(3) Notification shall include the individual's last known mailing address, and the agency's definition of abuse, neglect, misappropriation or exploitation of property that it used in making the determination, and any other information that the department determines is necessary to adequately identify the individual for purposes of administrative hearings provided by this part, or to adequately identify the individual when inquiry to the registry is made.

(b) The department shall also include an individual's name on the registry when it receives a copy of a criminal disposition from the Tennessee bureau of investigation or another federal, state, or local law enforcement agency, court, or criminal justice agency indicating that a criminal disposition against the named individual was the result of an offense against a vulnerable person, but only if the copy of the court's criminal disposition order indicates that:

(1) The individual was notified that, as a consequence of the conviction, the individual will be placed on the abuse registry;

(2) The offense constitutes an offense against a vulnerable person; and

(3) The court has ordered placement on the abuse registry pursuant to this part and the clerk is required to forward such judgment to the department.

(c) Upon receiving the notification set out in subsection (a) or (b), the department shall, in addition to entering the individual's name on the registry, also maintain and make available upon request the name of the reporting agency and the applicable definition of abuse, neglect, misappropriation or exploitation of property supplied by that agency. The individual's name, once entered on the registry, shall remain on the registry, except as provided in subsection (f), even if the individual meets the requirements of any criminal disposition, and regardless of any expunction that may be ordered by any court or that may take place by operation of law in connection with the criminal disposition; provided, however, that any expunction reported to the department shall result in the removal from the registry of everything regarding the criminal disposition, except the individual's name, and the department shall destroy any other documentation of the criminal disposition; provided, further, however, that if a person is reported by any state agency pursuant to this part, the identification of the individual as a perpetrator of abuse, neglect, misappropriation or exploitation of a vulnerable person shall not be subject to removal based upon expunction of a criminal disposition.

(d) Upon entry of this information, the department shall notify the individual, at the individual's last known mailing address, of the individual's inclusion on the registry. Although the individual will 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 such are based, the individual may challenge the accuracy of the report that such a criminal disposition has occurred, or such hearing conclusions were made or any fact issue related to the correct identity of the individual. If the individual makes such a challenge within sixty (60) days of notification of inclusion on the registry, the commissioner, or the commissioner's designee, shall afford the individual an opportunity for a hearing on the matter that complies with the requirements of due process and the Uniform Administrative Procedures Act.

(e) If the department receives from the Tennessee bureau of investigation,

other federal, state or local law enforcement agency, any court, or criminal justice agency documentation substantiating that an offense against a vulnerable person has been committed by an individual, whose name has not already been placed on the registry pursuant to subsection (a) or (b), the department shall, prior to placing the individual's name on the registry, afford that individual an opportunity for an administrative due process hearing pursuant to the requirements of the Uniform Administrative Procedures Act, or equivalent judicial or administrative procedures; provided, however, that nothing in this part shall require the department to establish any new procedures or modify any existing procedures it may use for the provision of due process. If, as a result of the hearing, the department finds the individual committed an offense against a vulnerable person, the department shall include the name of the individual on the registry.

(f) Any individual's name shall be immediately removed from the registry if:

(1) Upon a hearing, the commissioner, or the commissioner's designee, determines that the initial report of a criminal disposition, or the administrative hearing conclusions never occurred; or

(2) At the final step taken in an appellate process, a reported conviction, an emergency order, or an administrative hearing result is reversed.

(g)(1) A state agency that has placed a person in the registry pursuant to this part may recommend to the department the removal of the person's name if:

(A) It finds that the placement of the person's name on the registry was in error; or

(B) An advisory group convened by the state agency composed of persons with experience in the subject matter areas of the agency's work, or who by experience or education the agency determines are qualified to provide recommendations to the agency regarding a person's likelihood of committing further acts or omissions that led to the person's placement on the registry determines, based upon evidence presented to the group, that removal of the person from the registry is clearly warranted, then the group may recommend in writing to the agency a waiver and removal of the person from the registry.

(2) The final decision regarding the recommendation for removal from the registry shall be made by the state agency and the recommendation shall be reduced to writing, giving the agency's reasons for the decision and sent to the person seeking the waiver.

(3) If the decision is to remove the person from the registry, the recommendation shall be sent to the department and the person's name shall be removed by the department.

(4) If the person seeking a waiver is dissatisfied with the determination made by the state agency, the person shall be permitted to appeal. The appeal shall be conducted as a contested case hearing pursuant to the Uniform Administrative Procedures Act.

(5) The decision and the written recommendations of the advisory group and the state agency shall be open for public inspection.

68-11-1310. Prohibited disclosure of confidential and proprietary information in connection with hospital cooperative agreements.

(a) The following records received by the department or the attorney general and reporter from the recipients or applicants of a certificate of public advantage for a cooperative agreement issued pursuant to this part shall not be subject to disclosure pursuant to title 10, chapter 7, part 5:

(1) Operating and capital budgets;

(2) Existing and future business plans other than any plans, and any modifications to those plans, that are required to be submitted to the state pursuant to a certificate of public advantage or application for a certificate of public advantage;

(3) Financial audit working papers as defined in § 4-3-304(7);

(4) Contracts or agreements with payors and payor pricing information;

(5) Physician recruitment plans and contracts or agreements with physicians;

(6) Contracts or agreements with vendors;

(7) Complaints, including hotline complaints and open investigations of such complaints; and

(8) Employee personnel files, including performance evaluations, disciplinary actions, individual compensation amounts, and employment contract terms not otherwise publicly available.

(b) Records set forth in subsection (a) may contain trade secrets as defined in § 47-25-1702. The state shall notify in writing the recipient or applicant of a certificate of public advantage for a cooperative agreement at least seven (7) business days before any intended disclosure of such records. The recipient, applicant, or third party may petition the department pursuant to § 4-5-223 for a declaratory order to determine if disclosure would cause the loss of a trade secret. Any contested case convened in response to the petition shall be conducted as set forth in title 4, chapter 5, part 3; however, the provisions of § 4-5-325 shall not be applicable. Records subject to the petition shall not be disclosed until the review process in title 4, chapter 5, part 3 is completed.

68-11-2101. Part definitions.

As used in this part:

(1) "Board" means the board for licensing health care facilities;

(2) "Capable of providing neuroendovascular treatment" means the capacity to:

(A) Properly assess, diagnose using advanced imaging devices, and treat stroke patients with complex cases of ischemic stroke, including emergent large vessel occlusion causing the loss of blood supply to a part of the brain and requiring immediate treatment at a facility with a trained team of neurointerventional surgeons, vascular neurologists, and assisting medical personnel; and

(B) Perform a mechanical thrombectomy twenty-four (24) hours per day, seven (7) days per week;

(3) "Department" means the department of health;

(4) "Stroke-related designation" means a designation including, but not limited to, a comprehensive stroke center, primary stroke center, acute stroke-ready hospital, or other stroke-related designation approved by rule by the board in consultation with the emergency medical services board.

68-11-2102. Recognition of hospitals with stroke-related designations.

(a) The board shall promulgate rules establishing a procedure for recognizing hospitals that have stroke-related designations.

(b) The board shall recognize a stroke-related designation for a hospital if the hospital has an active certification as a comprehensive stroke center, primary stroke center, or acute stroke-ready hospital from a department-approved nationally recognized certifying body or a corresponding certification from a department-approved nationally recognized certifying body recognizing the hospital as capable of providing neuroendovascular treatment. The hospital must maintain such certification in order to maintain recognition of its stroke-related designation.

(c) If a hospital does not comply with the procedure established by the board, then the board shall remove any reference to the facility's stroke-related designation from the board's website along with any materials demonstrating the facility's stroke-related designation.

68-14-302. Part definitions.

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

(1) "Alteration" shall be defined by rule, but shall not mean function replacement that equals or makes better the existing operation of the facility;

(2) "Commissioner" means the commissioner of health, the commissioner's duly authorized representative, and in the event of the commissioner's absence or vacancy in the office of commissioner, the deputy commissioner;

(3) "Critical items" means those aspects of operation or conditions of facilities or equipment that, if in violation, constitute the greatest hazards to health and safety, including imminent health hazards. Critical items shall include, but are not limited to, the following:

(A) Restriction of employees with infection — (hotels, pools);

(B) Proper cleanliness and good hygiene practices of employees — (hotels);

(C) Proper sanitizing of utensils and equipment — (hotels);

(D) Approved water supply, hot and cold running water under pressure — (hotels, pools);

(E) Sewage, liquid waste disposal — (hotels, pools);

(F) No cross connection, backsiphonage — (hotels, pools);

(G) Toilet and hand washing facilities for employees — (hotels);

(H) Insects and rodents — (hotels);

(I) Toxic items properly stored and labeled — (hotels);

(J) Fire safety — (hotels);

(K) Safety — (pools);

(L) Excessive turbidity — (pools);

(M) Total absence of approved sanitizing residuals — (pools);

(N) Failure or lack of filtration, sanitizing and cleaning equipment and chemicals — (pools); and

(O) Absence or lack of required supervisory personnel — (pools);

(4) "Department" means the department of health;

(5) "Homeowners' association" means a nonprofit corporation that manages or contracts for the management of the common areas of a residential multi-family housing development. A homeowners' association is governed by a board of directors elected by a majority vote of the individual

homeowners;

(6) "Hotel" means any building or establishment kept, used, or maintained as, or advertised as, or offered to the public to be, a place where sleeping accommodations are furnished for pay to transients or travelers, whether or not meals are served to transients or travelers; "hotel" does not include a short-term rental unit, as defined in § 13-7-602;

(7) "Imminent health hazard" means any condition, deficiency, or practice that, if not corrected, is very likely to result in illness, injury, or loss of life to any person;

(8) "Multi-family residential housing" means condominiums, subdivisions, and individual residential housing developments that share common grounds, parking facilities, tennis courts, swimming pools and similar recreational facilities that are operated by a homeowners' association;

(9) "Multi-family residential housing swimming pool" means a private swimming pool maintained by a homeowners' association solely for the use and benefit of the members of the homeowners' association and their guests;

(10) "Person" means any individual, partnership, firm, corporation, agency, municipality, state or political subdivision, or the federal government and its agencies and departments; and

(11) "Public swimming pools" means a structure of man-made materials, located either indoors or outdoors, used for bathing or swimming, or for instructional purposes in swimming, diving, or other aquatic activities by humans, together with buildings, appurtenances, and equipment used in connection with the structure. "Public swimming pools" also includes spa-type, wading, special purpose pools or water recreation attractions including, but not limited to, those operated at or in camps, child care facilities, cities, clubs, subdivisions, apartment buildings, counties, institutions, schools, motels, hotels, and mobile home parks to which admission may be gained with or without payment of a fee.

68-29-104. Application of chapter.

This chapter applies to all medical laboratories and medical laboratory personnel within the state, except:

(1) An official medical laboratory operated by the United States public health service, the department of veterans affairs and the armed forces;

(2) A laboratory operated by a duly licensed physician or optometrist for the sole purpose of testing samples collected from their own patients; provided, however, that if samples for testing are received from other sources, all of this chapter shall apply;

(3) Laboratories operated and maintained exclusively for research and teaching purposes, involving no patient or public health services whatsoever. Schools operated to train medical laboratory personnel are not included in this exception;

(4) Medical laboratory personnel or other persons specifically exempt by rules promulgated under authority of this chapter; provided, that such rules shall specifically exempt each duly licensed physician holding a valid certificate of waiver issued by the United States secretary of health and human services, pursuant to the Clinical Laboratory Improvement Act of 1988, codified in 42 U.S.C. § 263a, whenever and wherever the physician is engaged in the performance or supervision of laboratory examinations and

procedures included within the scope of the certificate of waiver;

(5) Any postsecondary school accredited by an agency recognized or approved by the Council on Postsecondary Accreditation (COPA), unless the postsecondary school operates a "medical laboratory" as defined in § 68-29-103. Postsecondary schools that train medical laboratory personnel are included in the definition. However, this chapter does not apply to schools that teach medical assistants; provided, that such schools teach only basic, simple laboratory tests as one (1) component of the overall curriculum, and the tests are taught by a licensed medical laboratory technologist. The list of tests that can be taught shall be approved by the board and published in the regulations promulgated under the authority of this chapter. The schools shall not include in their advertisement any statement indicating that they train persons for employment in medical laboratories either in this state or any other state; further, the schools shall expressly state in their catalogs that the curriculum does not train the student for employment in medical laboratories either in this state or any other state;

(6) Screening programs conducted by for-profit hospitals or nonprofit organizations or in conjunction with conferences sponsored by an established or recognized association of elected state government officials, staff of elected state government officials or both officials and staff, or any other group or association that is an umbrella organization for such officials, staff, or both officials and staff and if the state pays membership dues to such conference; provided, that these programs are under the direct supervision of a physician licensed pursuant to title 63, chapter 6 or 9, and a letter of exemption has been issued to the organization by the board. However, screening program test results from conferences, conducted by an established or recognized association of elected state government officials, staff of elected state government officials or both officials and staff, or any other group or association that is an umbrella organization for such officials, staff, or both officials and staff and if the state pays membership dues to such conference, may be submitted to the individual;

(7) Licensed nurses and licensed respiratory care therapists, technicians and assistants employed by a licensed home care organization, with respect to procedures that:

(A) Are performed pursuant to the written order of a licensed physician;

(B) Involve the use of devices approved for home use by the food and drug agency; and

(C) Are included within the scope of a valid certificate of waiver or other certificate issued to a licensed home care organization by the secretary of health and human services, pursuant to the Clinical Laboratory Improvement Act of 1988;

(8) Laboratories under the jurisdiction of county health departments in the state of Tennessee and such other laboratories as defined by the board;

(9) Laboratories operated for the sole purpose of providing medical services in student health programs as approved by the board;

(10) Laboratories operated for the sole purpose of providing medical services to support employees in the workplace environment, in an occupational health program, as approved by the board; and

(11) Public health laboratory testing personnel employed by the department, while they are performing work at a medical laboratory operated by the state.

68-34-105. Disposition of funds — Development of program.

(a) The department is authorized to receive and disburse such funds as may be available to it for family planning programs in accordance with this section.

(b)(1) Notwithstanding any other law, any funds that become available to the department for family planning programs, in excess of funds needed to operate family planning programs in county or district health departments, must be awarded to eligible entities in the following order of descending priority:

(A) Public entities that are eligible under state and federal law to provide family planning services, including state, county, and local community health centers, and federally qualified health centers;

(B) Nonpublic entities that are eligible under state and federal law to provide family planning services and that provide comprehensive primary and preventative care services; and

(C) Nonpublic entities that are eligible under state and federal law to provide family planning services, but that do not provide comprehensive primary and preventative care services.

(2) For purposes of subdivisions (b)(1)(B) and (C), "comprehensive primary and preventative care services" means those services described in Sections 330(b)(1)(A)(i)(I), (II), (III)(aa)-(gg) and (IV), and 330(b)(1)(A)(ii) of the Public Health Service Act (42 U.S.C. §§ 254b(b)(1)(A)(i)(I), (II), (III)(aa)-(gg),(IV), and 42 U.S.C. § 254b(b)(1)(A)(ii)) as well as pharmaceutical services as may be appropriate for particular entities.

(c) Notwithstanding subsection (b), the department shall ensure, in compliance with federal law, distribution of funds for family planning services in a manner that does not severely limit or eliminate access to those services in any region of the state.

68-59-102. Chapter definitions.

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

(1) "Advisory council" means the Tennessee trauma care advisory council, formerly known as the trauma task force;

(2) "Commissioner" means the commissioner of health;

(3) "Comprehensive regional pediatric center" means any pediatric inpatient hospital licensed by the department pursuant to chapter 11, part 2 of this title, and Tenn. Comp. R. & Regs. R. 1200-8-30-.01(4);

(4) "Coordinator" means the person designated by the commissioner pursuant to § 68-59-104;

(5) "Department" means the department of health;

(6) "Trauma center" means any Level I, Level II, Level III or Level IV institution licensed by the department pursuant to chapter 11, part 2 of this title;

(7) "Trauma patient" means a patient who is on the state trauma registry or the National Trauma Registry of the American College of Surgeons;

(8) "Trauma service codes" means a subset of the ICD-10-CM diagnosis codes, or the most relevant versions of the International Classification of Diseases and Related Health Problems (ICD) required by the centers for medicare and medicaid services, for coding hospital discharges designated as trauma service codes by the American College of Surgeons committee on trauma;

(9) "Trauma system" means:

(A) All designated Level I, II, III, IV trauma centers;

(B) All designated comprehensive regional pediatric centers; and

(C) All other acute care hospitals that provide levels of treatment for trauma patients that are at least as great as the lowest level provided by a designated trauma center; and

(10) "Uncompensated care" means either:

(A) Care provided by a facility defined as part of the trauma system to a trauma patient who:

(i) Has no medical insurance, including Medicare Part B coverage;

(ii) Has no medical coverage for trauma through workers' compensation, automobile insurance, or any third party, including any settlement or judgment resulting from such coverage; and

(iii) Has not paid for the trauma care provided by the trauma provider after documented attempts by the provider to collect payment; or

(B) The uncompensated cost to the provider for care provided by a facility defined as part of the trauma system to a trauma patient who is covered by TennCare in the event that TennCare payment to the trauma provider does not fully compensate the provider for the actual cost of trauma services rendered.

68-105-120. Exceptions. [See contingent amendment and the Compiler's Notes.]

Nothing contained in this chapter shall apply to:

(1) Personnel of the military or naval forces of the United States, or to the duly organized military force within the state, so long as these persons are acting within their respective official capacities and in the performance of their official duties;

(2) Personnel of law enforcement entities, so long as these persons are acting within their official capacities and in the performance of their official duties;

(3) The use of explosives for occasional agricultural blasting. "Agricultural blasting" means stump removal, beaver dam or lodge eradication and other similar types of personal agricultural use;

(4) The use of explosive materials in medicines and medicinal agents in forms prescribed by the most recent edition of the official United States Pharmacopoeia or the National Formulary;

(5) Fireworks as permitted by chapter 104 of this title;

(6) The use of explosive materials solely intended by the commercial manufacturer to be used to create an exploding target for use in lawful sporting activity or the use of an exploding target for its intended purpose in lawful sporting activity; provided, that the person using the explosive materials is eighteen (18) years of age or older; or

(7) **[Contingent amendment. See the Compiler's Notes.]** The use of explosives in surface coal mining and reclamation operations to the extent the use is regulated by the department of environment and conservation pursuant to the Primacy and Reclamation Act of Tennessee, compiled in title 59, chapter 8, part 1, and title 30 of the Code of Federal Regulations.

68-115-219. Authorization of international qualifying events for kickboxing — Promulgation of rules.

(a) Notwithstanding any provision of this chapter to the contrary, the commission may authorize international qualifying events for kickboxing to occur in this state if the events meet the standards required for such events by the World Association of Kickboxing Organizations or any subsequent entity recognized as the official kickboxing governing body by the International World Games Association.

(b) Pursuant to § 68-115-201, the commission shall promulgate rules to effectuate this section.

68-115-302. Specified amateur and professional wrestling events.

This chapter shall not apply to any amateur wrestling event, including, but not limited to, high school and college wrestling. Nor shall this chapter apply to any professional wrestling contest or any form of wrestling for entertainment purposes.

68-117-104. Requirements.

(a) A tanning facility shall:

(1) Have a trained attendant on duty whenever the facility is open for business;

(2) Provide each customer with protective eyewear that meets the requirements of 21 CFR 1040.20(c)(4);

(3) Not allow a person to use a tanning device if that person does not use the protective eyewear;

(4) Show each customer how to use suitable physical aids, such as handrails and markings on the floor, to maintain proper exposure distance as recommended by the manufacturer;

(5) Limit each customer to the maximum exposure time as recommended by the manufacturer; and

(6) Control the interior temperature of a tanning facility so that it does not exceed thirty-four degrees centigrade (34° C).

(b)(1) Each time a person uses a tanning facility or each time a person executes or renews a contract to use a tanning facility, the person shall sign a written statement, as set forth in this chapter, that the person:

(A) Has read and understood the warnings before using the device; and

(B) Agrees to use the protective eyewear that the tanning facility provides.

(2) When using a tanning device, a person shall use the protective eyewear that the tanning facility provides.

(3)(A) Except as otherwise provided in subdivision (b)(3)(B), a person between sixteen (16) and eighteen (18) years of age shall be accompanied by the person's parent or legal guardian when using a tanning device. The accompanying parent or legal guardian must provide photo identification, provide proof of guardianship if applicable, and sign a warnings statement on a form issued by the department of health that complies with § 68-117-106 and states that the legal guardian is giving consent for use of a tanning device to the person who is between sixteen (16) and eighteen (18) years of age. The department of health shall issue a warning statement

form that complies with this subdivision (b)(3)(A) on its website.

(B) A person between sixteen (16) and eighteen (18) years of age who has used a tanning device at a tanning facility in compliance with subdivision (b)(3)(A) may use a tanning device at that tanning facility without the parent or guardian present on a subsequent visit as long as the signed statement required by subdivision (b)(3)(A) remains on file with the tanning facility.

(4) A person under sixteen (16) years of age is prohibited from using a tanning device at a tanning facility.

(5) The operator of the tanning facility shall maintain the signed statements provided for in subdivision (b)(3) for a period of not less than two (2) years and shall make them available for inspection upon request.

68-122-109. Examinations for chief, deputy and special inspectors — Suspension or revocation of commission — Replacement when lost.

(a) Examinations for chief, deputy, or special inspectors must be administered by a National Board of Boiler and Pressure Vessel Inspectors' member jurisdiction; the National Board of Boiler and Pressure Vessel Inspectors during the last day of the In-service Commission (IS) two-week course; an on-demand provider approved by the National Board of Boiler and Pressure Vessel Inspectors; or other testing methods approved by the National Board of Boiler and Pressure Vessel Inspectors. The examinations must meet the requirements of the latest edition of the Rules for Commissioned Inspectors as approved by the National Board of Boiler and Pressure Vessel Inspectors. If an applicant fails to pass an examination, the applicant must follow the re-examination requirements of the latest edition of the Rules for Commissioned Inspectors. The record of an applicant's examination must be accessible to the applicant and the applicant's employer.

(b) A commission may be suspended or revoked after due investigation and recommendation by the board to the commissioner for the incompetence or untrustworthiness of the holder of the commission, or for willful falsification of any matter or statement contained in the applicant's application or in a report of any inspection. A person whose commission has been suspended or revoked, except for untrustworthiness, shall be entitled to apply to the board for reinstatement or, in the case of revocation, for a new examination and commission after ninety (90) days from such revocation. A person whose commission has been suspended or revoked shall be entitled to an appeal as provided in § 68-122-115 and to be present in person and/or represented by counsel on the hearing of the appeal.

(c) If a certificate or commission is lost or destroyed, a new certificate or commission shall be issued in its place without another examination.

68-140-304. Powers and duties of board.

In addition to any other power, duty or responsibility given to the board by this part, the board has the power, responsibility and duty to:

(1) Approve schools, establish and prescribe courses, and establish and prescribe the curricula and minimum standards for training, as required to prepare persons for certification under this part;

(2) Promulgate regulations governing the issuance of such licenses, permits and certificates for services, vehicles or personnel as required by this part, and condition such issuance as necessary. These regulations may establish various categories and classifications of licenses, permits and certificates;

(3) Establish minimum standards governing the activities and operations of various categories of services, vehicles or personnel, licensed, permitted or certified by the board;

(4) Provide hearings in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, to persons seeking review of actions of the department, the board, or the commissioner, and hear and decide those enforcement and disciplinary matters presented by the department;

(5) Issue such orders as may be necessary or helpful to effectuate this part;

(6) Establish standards for the amounts and types of insurance coverage required for authorized providers of emergency medical services in this state; provided, however, that:

(A) Coverage shall extend to an EMS vehicle whether operated by the owner or the owner's agent; and

(B) In the case of a local government, the board may consider compliance with the Governmental Tort Liability Act, compiled in title 29, chapter 20, as satisfaction of this requirement;

(7) Regulate the development and operation of emergency medical services telecommunication systems;

(8) Promulgate rules establishing fees as provided in this part;

(9) Establish standards pursuant to the Uniform Administrative Procedures Act for emergency medical dispatch;

(10) Certify paramedic training centers operated by a fire department that operates its own fire training academy to provide training for career paramedics employed by the fire department;

(11) Enter into agreements or contracts with any person to assist impaired professionals who are licensed, permitted or certified by the board;

(12) Establish standards for a community paramedic through promulgation of rules pursuant to the Uniform Administrative Procedures Act. These standards shall provide that the evaluation, advice, and treatment are within the scope of practice of emergency medical services personnel when specifically requested or directed by a physician as a means of delivering mobile integrated health care; and

(13) Certify emergency medical technician (EMT) and advanced emergency medical technician (AEMT) training centers operated by ambulance services to provide training for career EMTs and AEMTs.

68-140-311. Prohibited acts — Disciplinary action.

(a) Any person subject to regulation pursuant to this part may be subject to discipline or may be denied authorization for the following prohibited acts:

(1) Violation or attempted violation or assisting in or abetting the violation of or conspiring to violate any of the following:

(A) Any provision of this part;

(B) Any rule or regulation of the board;

(C) Any order issued pursuant to this part;

(D) Any terms or conditions of an authorization; or

(E) Any criminal statute of any state or Canadian province, or of the United States or Canada which involves moral turpitude or reflects upon the person's ability to fulfill such person's responsibilities under this part;

(2) Habitual intoxication or personal misuse of any drugs or the use of intoxicating liquors, narcotics, controlled substances, controlled substance analogues or other drugs or stimulants in such manner as to adversely affect the delivery, performance or activities in the care of the patients requiring medical care;

(3) Making false statements or representations, being guilty of fraud or deceit in obtaining authorization;

(4) Making false or materially incorrect or inconsistent entries in any patient records or in the records of any ambulance service, health care facility, school, institution or other work place location;

(5) Failure to report patient care which accurately reflects the evaluation and treatment of each patient;

(6) Abandoning or neglecting a patient requiring emergency care, following assumption of duty;

(7) Unauthorized use or removal of narcotics, drugs, supplies or equipment from any ambulance, health care facility, school, institution or other work place location;

(8) Performing or attempting emergency care techniques or procedures without proper permission, license, certification, training, medical direction, or otherwise engaging in unethical practices or conduct;

(9) Assigning persons to perform functions contrary to this part or rules and regulations of the board;

(10) Failing to submit an application, required documentation, or fee by the established expiration date;

(11) Permitting or allowing another person to use the licensed person's license or certificate for the purpose of practicing or impersonating an EMT or other certified or licensed health care provider;

(12) Discriminating in rendering emergency care because of race, sex, creed, religion, national origin or ability to pay;

(13) Gross health care liability or negligence, or a pattern of continued or repeated health care liability, ignorance, negligence or incompetence in the provision of emergency care;

(14) Failure of the owner or provider of any ambulance or emergency medical service to ensure compliance by such service and its personnel with this part and all regulations promulgated hereunder; or

(15) Refusing to follow the medical orders of a licensed medical doctor or doctor of osteopathy on the scene if such physician:

(A) Takes responsibility for the care of the patient;

(B)(i) Either travels with the patient to the hospital; or

(ii) Reaches an agreement with the base hospital physician that the patient has been stabilized and can be transported safely without the continued attendance of the physician; and

(C) Signs the trip records of the ambulance service relative to the orders and treatment given on the scene and in transit, if applicable.

(b) Disciplinary action against a person licensed to practice by another state of the United States for any acts or omissions which would constitute grounds

for discipline of a person licensed in this state. A certified copy of the initial or final order or other equivalent document memorializing the disciplinary action from the disciplining state shall constitute prima facie evidence of a violation of this section, and shall be sufficient grounds upon which to deny, restrict, or condition licensure or renewal and/or otherwise discipline a licensee licensed in this state.

(c) In disciplinary actions against individuals holding a license, certificate, permit, or authorization in this state at the time of a disciplinary action in another reporting state, in the absence of justifying evidence to the contrary, there shall be a rebuttable presumption that the sanction proposed in any such proceeding will be comparable to that in the reporting state. However, no such presumption shall exist for those who are applying for licensure, certification, permit, or authorization in this state during or after the time the disciplinary action in the other state is pending or has become final. If the board denies, restricts, or conditions a licensure, certification, permit, or authorization based on a disciplinary action in another state, the applicant shall, upon written request, filed within thirty (30) days of the date of the action on the application, be entitled to a contested case hearing.

(d) Any person subject to regulation under this part must notify the Tennessee emergency medical services board of all convictions and pending charges, including arrests, citations for reckless driving under § 55-10-205, and indictments, for commission of a felony or misdemeanor in any jurisdiction within ten (10) business days of the occurrence of such actions. This subsection (d) shall apply to persons whose licenses are active, inactive, or suspended on the date of the conviction or the date the charges were filed. Failure to timely notify the Tennessee emergency medical services board of the occurrence of such actions shall result in the suspension of active and inactive licenses.

68-140-328. Treatment of heart attack patients.

(a) The department shall recognize hospitals that meet the criteria of a ST-elevation myocardial infarction (STEMI) receiving center or STEMI referring center. Such recognition is limited to inclusion on a list, maintained by the department, of STEMI receiving centers and STEMI referring centers. The list shall be published on the department's division of emergency medical services' website.

(b) The department may recognize certification or accreditation from a department-approved nationally recognized certifying or accrediting organization, as sufficient to recognize a hospital as a STEMI receiving center or a STEMI referring center.

(c) To be recognized as a STEMI receiving center or a STEMI referring center by the department, a hospital must submit written notification to the board for licensing healthcare facilities and submit proof that the hospital meets the applicable criteria set forth by a department-approved nationally recognized certifying or accrediting organization.

(d) If a hospital loses its certification or accreditation, it shall notify the board for licensing healthcare facilities. The department must then remove the hospital from the department's list.

(e) Each ambulance service shall develop and implement pre-hospital care protocol plans related to the assessment, treatment, and transport of STEMI heart attack patients by licensed emergency medical services personnel. The

protocol shall include plans for the triage and transport of STEMI heart attack patients to the closest or most appropriate STEMI receiving center, or, when appropriate, to a STEMI referring center, based on nationally recognized clinical practice guidelines. The emergency medical services board has the authority to promulgate rules to implement and enforce this section.

(f) STEMI receiving centers are encouraged to coordinate, through agreement, with STEMI referring centers throughout the state to provide appropriate access to care for acute heart attack patients.

68-140-329. Treatment of stroke patients.

(a) The emergency medical services board shall promulgate rules establishing protocol guidelines for evidence-based pre-hospital assessment, treatment, education, and transport of stroke patients by emergency medical providers.

(b) Based on the protocol guidelines established by the board, each ambulance service shall establish and implement pre-hospital care protocol plans related to the assessment, triage, and transport of stroke patients. The protocol guidelines shall include specific language incorporating entry and transfer plans for patients with suspected large vessel occlusion to the most appropriate stroke-ready facility.

(c) Each licensed ambulance service in this state shall refer to protocol guidelines, as part of current training requirements, to assure that licensed emergency medical services personnel receive regular training on the assessment and treatment of stroke patients, including those most severe stroke cases, which may include a large vessel occlusion.

68-140-330. Waiver of initial licensure fees for low-income persons. [Effective on January 1, 2019.]

(a) As used in this section:

(1) "Licensing" means the procedure through which the privilege to engage in a profession regulated under this part is granted by the board;

(2) "Licensure fee" means a fee imposed by the board on persons licensed to practice a profession for the privilege of services; and

(3) "Low-income persons" means persons who are enrolled in a state or federal public assistance program, including, but not limited to, temporary assistance for needy families (TANF), medicaid, or supplemental nutrition assistance program (SNAP).

(b)(1) When a license is required for persons to practice in a profession under this part, the board shall waive all initial licensure fees for low-income persons.

(2)(A) Persons seeking a waiver of initial licensure fee requirements shall apply to the board in a format prescribed by the board.

(B) The board shall process the application within thirty (30) days of its receipt from the applicant.

(3) The board shall promulgate rules to effectuate the purposes of this section.

68-140-331. Certification of training program offered by EMT/AEMT training center — Documentation — Annual report — Limited pilot project.

(a) In order to be certified by the board pursuant to § 68-140-304(13), a training program offered by an EMT/AEMT training center must follow the National EMS Scope of Practice Model for Emergency Medical Service Personnel as promulgated by the United States department of transportation, national highway traffic safety administration. Ambulance services licensed in this state may establish an EMT/AEMT training program. Additionally, the ambulance service must have an instructor coordinator approved by the division of emergency medical services who serves as the training coordinator or lead instructor for the ambulance service. The ambulance service must charge a special enrollment fee of one hundred seventy-five dollars ($175) to each student to be paid directly to the division of emergency medical services to be allocated to the general fund.

(b)(1) A training program offered by an EMT/AEMT training center may not offer training to more than two (2) classes of students per year, per type of class.

(2) A training program offered by an EMT/AEMT training center may not have more than ten (10) total students per class.

(3) An ambulance service located in a county with a population of less than fifty thousand (50,000), according to the 2010 federal census and any subsequent federal census, may send students to another county for training. The receiving training program may then have classes of no more than twenty (20) total students per class.

(c)(1) Any ambulance service that operates an EMT/AEMT training center must document, for each student, the student name, the course the students take, the date the course begins and is completed, and the exam score for each time the students take the standard certification test.

(2) The documentation required by subdivision (c)(1) must be submitted to the emergency medical services board and to the Tennessee board of regents.

(3) The emergency medical services board shall compile an annual report based on the documentation received from ambulance services operating an EMT/AEMT training center, and shall submit the annual report to the chairs of the health committee of the house of representatives and the health and welfare committee of the senate.

(d) The training centers authorized by this section are a limited pilot project for the purposes of assessing the impact of EMT/AEMT training centers on the provision of emergency medical services in the state. Under this limited pilot project, an EMT/AEMT training center authorized by this section may only be operated in counties having a population, according to the 2010 federal census or any subsequent federal census, of:

not less than:	nor more than:
156,800	156,900
122,900	123,000
57,400	57,500
56,800	56,900
18,200	18,300

68-201-119. Rules regarding vehicle inspection and maintenance program. [See contingent amendment and the Compiler's Notes.]

(a) The Tennessee air pollution control board shall promulgate rules that:

(1) Specify the type of vehicle inspection and maintenance program to be established and implemented; and

(2) Establish that the inspection associated with the vehicle inspection and maintenance program will occur on an annual basis in connection with vehicle registration renewal.

(b) **[Contingent effective date. See Compiler's Notes.]**

(1) Notwithstanding subsection (a) or any other law to the contrary, no inspection and maintenance program shall be employed in this state on or after the effective date of this subsection (b)[see Compiler's Notes], except in accordance with subsection (c).

(2) If at any time under the federal Clean Air Act (42 U.S.C. § 7401 et seq.) an inspection and maintenance program is mandated instead of available as a voluntary state implementation plan measure in any county of this state, then subdivision (b)(1) shall not apply in that county.

(c) An inspection and maintenance program may be employed in a county that, on May 15, 2018, has a local air pollution control program and implements its own inspection and maintenance program, if the county authorizes the continuation of its own inspection and maintenance program by action of its governing body; provided, that in order to authorize the continuation of the inspection and maintenance program, the governing body must authorize the continuation within thirty (30) days of May 15, 2018, and the presiding officer of the county governing body must furnish a certified copy of the approved resolution to the technical secretary of the air pollution control board within sixty (60) days of May 15, 2018.

(d) Any new contract between the department or a local government and a contractor providing inspection services, any new contract between a local government and the department relative to the inspection and maintenance program, and any renewals of such contracts occurring after May 15, 2018, shall include a provision stating that the contract must conform to any changes in state law. Any existing contracts as described in this section shall be amended to include a provision stating that the contract must conform to any changes in state law.

68-203-103. Fees. [See contingent amendment to subdivision (b)(1) and Compiler's Notes.]

(a)(1) In order to facilitate the proper administration of each statute listed in § 68-203-101(b), the department of environment and conservation shall charge fees for the various services and functions it performs under each of those statutes, including, but not limited to, permit processing fees, permit maintenance fees, license fees, registration fees, plans review fees, facility inspection fees and emission fees.

(2) The level of these fees shall be determined after careful consideration of the direct and indirect costs incurred by the department in performing its various functions and services under each of the statutes listed in § 68-203-101(b).

(3) It is the intention of the general assembly that the fees shall provide funding for additional staff of the environmental regulatory programs and

an improvement of the salaries and benefits of the existing staff of the environmental regulatory programs, to continue to improve performance in carrying out its duties. Prior to promulgating any fee increase, the authorities listed in subsection (b) shall review the basis for the fee increase and make a determination that the fee increase is warranted. The factors in the determinations shall include, if relevant: staffing needs, ability to attract and retain quality staff, feasible cost containment measures, comparisons with salaries paid by other governments and the private sector, levels of federal grants and state appropriations, and the ability of the program to maintain or improve its performance in carrying out its duties.

(b) The fees shall be adopted by regulations by the following authorities:

(1) **[Current version. See second version for contingent amendment and Compiler's Notes.]** The fees under the Tennessee Safe Drinking Water Act of 1983, compiled in chapter 221, part 7 of this title, and the Water Quality Control Act of 1977, compiled in title 69, chapter 3, shall be set by the Tennessee board of water quality, oil and gas;

(1) **[Contingent amendment. See the Compiler's Notes.]** The fees under the Tennessee Safe Drinking Water Act of 1983, compiled in chapter 221, part 7 of this title, and the Water Quality Control Act of 1977, compiled in title 69, chapter 3, shall be set by the Tennessee board of energy and natural resources, created by § 69-3-104;

(2) The fees under the Tennessee Air Quality Act shall be set by the air pollution control board;

(3) The fees under the Tennessee Solid Waste Disposal Act, compiled in chapter 211, part 1 of this title, and the Tennessee Hazardous Waste Management Act, compiled in chapter 212, part 1 of this title, shall be set by the underground storage tanks and solid waste disposal control board;

(4) The fees under the Water Environmental Health Act, compiled in chapter 221, part 9 of this title, shall be set by the board of certification created by § 68-221-905; and

(5) The fees under chapter 221, part 4 of this title, relative to subsurface sewage disposal; the Wastewater Facilities Act of 1987, compiled in chapter 221, part 10 of this title; the Radiological Health Service Act, compiled in chapter 202, part 2 of this title; the Medical Radiation Inspection Safety Act; title 69, chapter 10, relative to water wells; and the Safe Dams Act of 1973, compiled in title 69, chapter 11, shall be set by the commissioner of environment and conservation.

(c) All fees in existence prior to January 1, 1992, under the statutes identified in § 68-203-101(b), shall be continued and shall be calculated and maintained with any such additional fees authorized herein; provided, that such existing fees may be used in any manner consistent with the commissioner's authority, notwithstanding the provisions of this chapter.

(d) No permit or renewal of a permit shall be issued to an applicant for a permit under the foregoing authorities until all fees required by this chapter are paid in full.

(e)(1) If any part of any fee imposed under this chapter is not paid within fifteen (15) days of the due date, a penalty of five percent (5%) of the amount due shall at once accrue and be added thereto. Thereafter, on the first day of each month during which any part of any fee or any prior accrued penalty remains unpaid, an additional penalty of five percent (5%) of the then unpaid balance shall accrue and be added thereto. In addition, the fees not paid

within fifteen (15) days after the due date shall bear interest at the maximum lawful rate from the due date to the date paid; however, the total of the penalties and interest that accrue pursuant to this section shall not exceed three (3) times the amount of the original fee.

(2) If any maintenance fee is not paid in full, including any interest and penalty within sixty (60) days of the due date, the commissioner may suspend the permit pending the opportunity for hearing until the amount due is paid in full.

(3) In addition to other powers and authority provided in this chapter, the commissioner is authorized to seek injunctive relief in the chancery court of Davidson County or any court of competent jurisdiction for a judgment in the amount owed the state under this chapter.

(4)(A) Any person required to pay the fees set forth under this chapter who disagrees with the calculation or applicability of the fee may petition the appropriate entity identified in subsection (b) for a hearing.

(B) In order to perfect a hearing, a petition for a hearing, together with the total amount of the fee due, must be received by the commissioner not later than fifteen (15) days after the due date.

(C) Such hearing shall be in accordance with contested case provisions set forth in the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(D) If it is finally determined that the amount in dispute was improperly assessed, the commissioner shall return the amount determined to be improperly assessed with interest.

(f) No permit maintenance fees shall be levied under the subsurface sewage disposal law on homeowners or other persons who have subsurface sewage disposal systems on their property.

(g)(1) Under each program for which a permit processing fee is established pursuant to this chapter, the promulgating authority shall also establish by regulation a schedule for timely action by the department on permit applications under that program.

(2) Such schedules shall set forth the maximum length of time which is necessary and appropriate for a thorough and prompt review of each category of permit applications, and shall take into account the nature and complexity of permit application review required by the statute under which the permit is sought.

(3) Should the department fail to grant or deny the permit within the time frame established by regulation, the department shall refund the permit processing fee to the permit applicant.

(4) Each promulgating authority shall at least quarterly be provided an update of information on the timeliness of permit processing. In the event the commissioner is the promulgating authority, such information shall be published in the Tennessee Administrative Register at least quarterly.

(h) For the following categories, the fees shall not exceed the following maximum amounts; however, the promulgating authorities are encouraged to use graduated fees to reflect the volume of waste, population served, or other factors determined necessary to fairly apportion the fees:

(1) Filing/processing fee for state water quality permit: five thousand dollars ($5,000);

(2) Annual maintenance fee for NPDES permit or state water quality permit: fifteen thousand dollars ($15,000);

(3) Inspection fee for a major public water or wastewater treatment system: two thousand five hundred dollars ($2,500);

(4) Engineering plans review for water or wastewater systems: one thousand five hundred dollars ($1,500);

(5) Filing/processing fee for construction permit for a new air emission source or the increased emissions to a source: seven thousand five hundred dollars ($7,500);

(6) Filing/processing fee for permit modification for an air emission source: seven hundred fifty dollars ($750);

(7) Air contaminant emissions fee: eighteen dollars and seventy-five cents ($18.75) per ton per year, based on the air contaminant sources allowable emissions level; provided, that emissions subject to this fee are capped at four thousand (4,000) tons per pollutant, such as TSP, VOC, SO2, NOx, and other pollutants, excluding CO, per facility;

(8) Filing/processing fee for solid waste processing facility: two thousand five hundred dollars ($2,500);

(9) Filing/processing fee for solid waste landfill permit: ten thousand dollars ($10,000);

(10) Annual maintenance fee for a solid waste processing facility: five thousand dollars ($5,000);

(11) Annual maintenance fee for a solid waste landfill: fifteen thousand dollars ($15,000);

(12) Filing/processing fee for a commercial hazardous waste storage or treatment facility: thirty-seven thousand five hundred dollars ($37,500);

(13) Filing/processing fee for a commercial hazardous waste disposal facility or landfill site: seventy-five thousand dollars ($75,000);

(14) Annual maintenance fee for a commercial hazardous waste storage or treatment facility: thirty-seven thousand five hundred dollars ($37,500);

(15) Annual maintenance fee for a commercial hazardous waste disposal facility or landfill site: seventy-five thousand dollars ($75,000);

(16) Filing/processing fee for an on-site hazardous waste storage or treatment facility: fifteen thousand dollars ($15,000);

(17) Filing/processing fee for an on-site hazardous waste disposal facility or landfill site: thirty thousand dollars ($30,000);

(18) Annual maintenance fee for an on-site hazardous waste storage or treatment facility: eighteen thousand seven hundred fifty dollars ($18,750);

(19) Annual maintenance fee for an on-site hazardous waste disposal facility or landfill site: twenty-two thousand five hundred dollars ($22,500);

(20)(A) **Class I.** Dental radiation machines: all diagnostic equipment used exclusively for dental diagnostic procedures: ninety-eight dollars ($98.00);

(B) **Class II.** Priority two medical radiation machines: all diagnostic equipment, not in Class III, used exclusively for medical and veterinary diagnostic procedures: two hundred twenty-five dollars ($225);

(C) **Class III.** Priority one medical radiation machines: all diagnostic X-ray equipment used in radiologists' offices, orthopedic surgeons' offices or hospitals exclusively for medical diagnostic procedures: three hundred dollars ($300); and

(D) **Class IV.** Therapy medical radiation machines: all X-ray equipment with energies less than nine tenths megaelectron volts (0.9 MeV) used for the purpose of medical and veterinary radiation therapy: four

hundred fifty dollars ($450);

(21) Well driller annual license fee: two hundred fifty dollars ($250);

(22) Well pump and treatment device installer annual license fees: one hundred fifty dollars ($150);

(23) Safe dams plans review fee: five thousand dollars ($5,000);

(24) Safe dams safety inspection fee: one thousand dollars ($1,000);

(25) Permit application fee for oil or gas well: one thousand two hundred dollars ($1,200); and

(26) Mineral test hole permit application fee: one hundred dollars ($100).

68-211-104. Unlawful methods of disposal. [See contingent amendment to subdivision (1) and the Compiler's Notes.]

It is unlawful to:

(1) **[Current version. See second version for contingent amendment and the Compiler's Notes.]** Place or deposit any solid waste into the waters of the state except in a manner approved by the department or the Tennessee board of water quality, oil and gas;

(1) **[Contingent amendment. See the Compiler's Notes.]** Place or deposit any solid waste into the waters of the state except in a manner approved by the department or the Tennessee board of energy and natural resources, created by § 69-3-104;

(2) Burn solid wastes except in a manner and under conditions prescribed by the department and the Tennessee air pollution control board;

(3) Construct, alter, or operate a solid waste processing or disposal facility or site in violation of the rules, regulations, or orders of the commissioner or in such a manner as to create a public nuisance; or

(4) Transport, process or dispose of solid waste in violation of this chapter, the rules and regulations established under this chapter or in violation of the orders of the commissioner or board.

68-211-813. Municipal solid waste regions — Board — Plan for disposal capacity and waste reduction — Regional municipal solid waste advisory committee.

(a)(1) After consideration of the needs assessment is completed, municipal solid waste regions shall be established by resolutions of the respective county legislative bodies by December 12, 1992. A municipal solid waste region shall consist of one (1) county or two (2) or more contiguous counties. If the region consists of more than one (1) county, an agreement establishing the region shall be approved by the legislative body of each county that is a party to the agreement.

(2) Once established, municipal solid waste regions shall continue to exist until dissolved, a successor region or regions established and the requirements of this section are met. A municipal solid waste region may be dissolved and a new region or reconfigured region established upon completion of the following procedure:

(A) The approval of the dissolution of the existing region by resolution of the county legislative body of each county in the existing region;

(B) The approval of the proposed new or reconfigured region by resolution of the county legislative body of each county that is to be a part of the new or reconfigured region;

(C) The submittal to the department of environment and conservation of a list of the new board members, their addresses, phone numbers, terms of office and a new or revised plan for any new or reconfigured region that complies with the requirements of this part; and

(D) The approval of the department of environment and conservation of all of the new or revised plans for all of the new or reconfigured regions.

(3) Each county and region shall continue to follow the existing approved plan until new or revised plans are approved by the department of environment and conservation for each new or reconfigured region.

(4) The preferred organization of the regions shall be multi-county. Any county adopting a resolution establishing a single-county region shall state the reasons for acting alone in the resolution.

(b)(1)(A) The resolution establishing a region for a county or approving an agreement to establish a region with other counties shall provide for the establishment of a board to administer the activities of the region. This board shall consist of an odd number, not less than five (5) nor more than fifteen (15). Each county that is a member of a region shall be represented by at least one (1) member on the board. Municipalities that provide solid waste collection services or provide solid waste disposal services, directly or by contract, shall be represented on the board. The members of the board shall be appointed by the county mayors and municipal mayors, respectively, of the counties and eligible municipalities within the region. Municipalities entitled to representation on the board may agree to joint or multiple representation by a board member or for a county member to represent one (1) or more municipalities upon agreement of all local governments who share representation by a board member. Any such agreement shall specify the method of making the appointment for a member representing more than one (1) local governmental entity. Members of county and municipal governing bodies, county mayors, municipal mayors, county and municipal officers and department heads may be appointed to the board. Appointments must be approved by the legislative or governing bodies of the respective counties and eligible municipalities within the region. The members of the board shall serve for terms of six (6) years or until their successors are elected and are qualified by taking an oath of office, except that the initial board shall have approximately one third (⅓) of the members with terms of two (2) years, and approximately one third (⅓) of the members with terms of four (4) years, so as to stagger the terms of office.

(B) The county and municipal mayors, and any other authorities, who appoint members to regional boards created under subdivision (b)(1)(A) must strive to ensure that at least two (2) elected officials serve on each regional board.

(2) Any county that has a solid waste authority, not organized pursuant to part 9 of this chapter and in existence on July 1, 1991, may designate such authority as the board to administer the activities of the region, if such county chooses to be a region unto itself. The legislative body of the county and of each municipality that provides solid waste collection services or solid waste disposal services in the region shall approve such designation by the passage of an appropriate resolution.

(3) Appointments made after July 1, 1994, to the board for a municipal solid waste region consisting of counties having a population less than two

hundred thousand (200,000), according to the 1990 federal census or any subsequent federal census, shall be made so that rural landowners shall have representation on the board, and by December 31, 1998, at least thirty percent (30%) of the membership shall consist of members who own at least a fifty percent (50%) equitable or fee simple interest in land that is eligible for classification as agricultural, forest or open space land under the terms of the Agricultural, Forest and Open Space Land Act of 1976, compiled in title 67, chapter 5, part 10.

(c) Each region shall develop a plan for a ten-year disposal capacity, and for achieving compliance with the waste reduction and recycling goal required by § 68-211-861.

(d) The legislative body of any municipality which lies within the boundaries of two (2) or more regions shall select by resolution in which region it shall participate.

(e) Within each municipal solid waste region, the board of the region shall establish a regional municipal solid waste advisory committee whose composition shall be determined by the board.

(f) The department shall maintain materials designed to assist municipal solid waste region board members with administering their regions. The department shall publish the materials on its website and send an electronic copy of the materials to the appropriate appointing authorities by July 1, 2018.

68-212-105. Unlawful acts. [See contingent amendment to subdivision (1) and the Compiler's Notes.]

It is unlawful to:

(1) **[Current version. See second version for contingent amendment and the Compiler's Notes.]** Place or deposit any hazardous waste into the waters of the state except in a manner approved by the department or the Tennessee board of water quality, oil and gas;

(1) **[Contingent amendment. See the Compiler's Notes.]** Place or deposit any hazardous waste into the waters of the state except in a manner approved by the department or the Tennessee board of energy and natural resources, created by § 69-3-104;

(2) Burn hazardous waste except in a manner and under the conditions prescribed by the department or the air pollution control board;

(3) Construct, alter, operate, own, close, or maintain after closure a hazardous waste treatment, storage, or disposal facility in violation of the rules and regulations established under this part or in violation of orders of the commissioner or board, or in such a manner as to create a public nuisance or a hazard to public health;

(4) Store, containerize, label, transport, treat or dispose of hazardous waste or fail to provide information in violation of the rules, regulations, or orders of the commissioner or board, or in such a manner as to create a public nuisance or a hazard to the public health;

(5) Refuse or fail to pay to the department fees assessed pursuant to this part and in violation of the rules, regulations, or orders of the commissioner or board; or

(6) Site a new commercial hazardous waste facility less than one thousand five hundred feet (1,500′) from residential, child care, church, park or school property.

68-221-201. Part definitions. [See contingent amendment to subdivision (4)(D) and the Compiler's Notes.]

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

(1) "Authority" means the Tennessee local development authority, a public agency, created by title 4, chapter 31, or its successor;

(2) "Construction" means the erection, building, acquisition, alteration, reconstruction, improvement or extension of sewage treatment works, preliminary planning to determine the economic and engineering feasibility of sewage treatment works, the engineering, architectural, legal, fiscal and economic investigations and studies, surveys, designs, plans, working drawings, specifications, procedures, and other action necessary in the construction of sewage treatment works, and the inspection and supervision of the construction of sewage treatment works;

(3) "Department" means the department of environment and conservation;

(4) "Eligible project" means a project for construction of sewage treatment works:

(A) For which approval is required under this chapter;

(B) Which is, in the judgment of the department, either eligible for federal pollution abatement assistance, or required to be undertaken by a federal or state agency, whether or not federal funds are then available therefor;

(C) Which conforms with applicable rules and regulations of the department; and

(D) **[Current version. See second version for contingent amendment and the Compiler's Notes.]** Which is, in the judgment of the department, necessary for the accomplishment of the state's policy of water purity as established by the Tennessee board of water quality, oil and gas under § 69-3-105;

(D) **[Contingent amendment. See the Compiler's Notes.]** Which is, in the judgment of the department, necessary for the accomplishment of the state's policy of water purity as established by the Tennessee board of energy and natural resources under § 69-3-105;

(5) "Federal pollution abatement assistance" means funds available to a municipality, either directly or through allocation by the state, from the federal government as grants for construction of sewage treatment works;

(6) "Grant," "grants," "state grant," "state grants," "repayable grant," or "repayable grants" means the loan or loans of state funds to a municipality to be repaid by the municipality excluding any federal pollution abatement assistance;

(7) "Municipality" means any county, town or city, or special district empowered to provide municipal sewage collection and treatment services, or any combination of two (2) or more of the foregoing acting jointly, in connection with an eligible project;

(8) "Sewage treatment works" means any facility for the purpose of treating, neutralizing or stabilizing municipal sewage, including treatment or disposal plants, the necessary intercepting, outfall and outlet sewers, pumping stations integral to such plants or sewers, equipment and furnishings thereof and their appurtenances; and

(9) "User" means the owner, tenant or occupant of any lot or parcel of land connected to a sanitary sewer, or for which a sanitary sewer line is available if a municipality levies a sewer charge on the basis of such availability.

68-221-605. Appointment of commissioners — Members — Election of officers — Jurisdiction.

(a)(1) The governing body of the authority shall be a board of commissioners of five (5) persons appointed by the executive officer of the creating governmental entity and approved by its governing body.

(2) The board of commissioners shall include a person of good standing and reputation in each of the following fields: engineering, law, industry or commerce, and finance.

(3) Notwithstanding subdivision (a)(2), the board of commissioners for a water and wastewater treatment authority that does not provide water service shall include a person of good standing and reputation in each of the following fields: engineering, industry, commerce, and finance.

(b)(1) If there are one (1) or more participating governmental entities, one (1) additional member of the board shall be appointed by the executive officer of each participating governmental entity and approved by its governing body.

(2) The vote of each member of the board shall reflect the population of the area of the governmental entity which the member represents, with the five (5) members representing the creating governmental entity, each having a vote reflecting one fifth ($^1/_5$) of the population of the area of the entity.

(c) Commissioners first appointed to the board shall be appointed for terms of one (1), two (2), three (3), four (4) and five (5) years, respectively, but thereafter each commissioner shall be appointed for a term of five (5) years.

(d)(1) Any vacancy by reason of nonresidence, incapacity, resignation or death shall be filled in like manner for the unexpired term.

(2) A commissioner's term shall continue until the appointment and qualification of such commissioner's successor.

(3) A commissioner may be removed from office by a two-thirds (⅔) vote of the governing body of the governmental entity which approved the commissioner's appointment, but only after notice of the cause of the removal shall have been served upon the commissioner, and only after the commissioner shall have been granted an opportunity for a public hearing on such cause.

(e)(1) The board shall elect from among its members a chair and vice chair, each of whom shall continue to be voting members, and shall adopt its own bylaws and rules of procedure.

(2) The presence of commissioners having a majority of the voting strength of the commissioners shall constitute a quorum for the transaction of business.

(3) Except as herein expressly otherwise specified, all powers herein granted to an authority shall be exercised by the board.

(4) Commissioners shall receive no salary but shall be reimbursed for necessary expenses incurred in the performance of their official duties.

(5) Neither the Tennessee public utility commission nor any other board or commission of like character hereafter created shall have jurisdiction over the authority in the management and control of any treatment works, including the regulation of its rates, fees or charges.

(f)(1) All members of the board shall, within one (1) year of initial appointment or election to the board of commissioners or within one (1) year of reappointment or reelection to the board of commissioners, attend a minimum of twelve (12) hours of training and continuing education in one (1) or

more of the subjects listed in subdivision (f)(3).

(2) In each continuing education period after the initial training and continuing education required by subdivision (f)(1), a board member shall attend a minimum of twelve (12) hours of training and continuing education in one (1) or more of the subjects listed in subdivision (f)(3). For the purposes of this subsection (f), "continuing education period" means a period of three (3) years beginning January 1 after the calendar year in which a municipal utility board commissioner completes the training and continuing education requirements set forth in subdivision (f)(1) and each succeeding three-year period thereafter.

(3) The subjects for the training and continuing education required by this subsection (f) shall include, but not be limited to, board governance, financial oversight, policy-making responsibilities, and other topics reasonably related to the duties of the members of the board of commissioners of an authority.

(4) Any association or organization with appropriate knowledge and experience may prepare a training and continuing education curriculum for board members covering the subjects set forth in subdivision (f)(3) to be submitted to the comptroller of the treasury for review and approval prior to use. The comptroller shall file a copy of approved training and continuing education curriculum with the water and wastewater financing board. Changes and updates to the curriculum shall be submitted to the comptroller for approval prior to use. Any training and continuing education curriculum approved by the comptroller shall be updated every three (3) years and resubmitted to the comptroller for review and approval.

(5) For purposes of this subsection (f), a board member may request a training and continuing education extension of up to six (6) months from the comptroller of the treasury or the comptroller's designee. The request shall only be granted upon a reasonable showing of substantial compliance with this subsection (f). If the extension is granted, the board member must complete any additional required training hours necessary to achieve full compliance for only the relevant continuing education period within the extension period. The board member shall file copies of any extension request letters and corresponding comptroller of the treasury determination letters with the water and wastewater financing board.

(g) If any member of the board fails to meet the training and continuing education requirements set forth in subsection (f) before the end of the continuing education period or before the end of any extension approved by the comptroller of the treasury or the comptroller's designee, then such member shall not be eligible for reappointment or reelection to another term of office.

68-221-703. Part definitions. [See contingent amendment to subdivision (2) and the Compiler's Notes.]

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

(1) "Administrator" means the administrator of the United States environmental protection agency (EPA), or the administrator's designated representative;

(2) **[Current version. See second version for contingent amendment and the Compiler's Notes.]** "Board" means the Tennessee board of water quality, oil and gas as established by § 69-3-104;

(2) **[Contingent amendment. See the Compiler's Notes.]** "Board" means the Tennessee board of energy and natural resources, created by § 69-3-104;

(3) "Certified laboratory" means any facility for performing bacteriological, chemical or other analysis on drinking water which has received interim or final certification by the department;

(4) "Commissioner" means the commissioner of environment and conservation, the commissioner's duly authorized representative, and, in the event of the commissioner's absence or a vacancy in the office of commissioner, the deputy commissioner;

(5) "Construction" means any placement, assembly or installation of facilities or equipment (including contractual obligations to purchase such facilities or equipment) at the premises where such equipment will be used, including preparation work at such premises;

(6) "Contaminant" means any physical, chemical, biological or radiological substance or matter in water;

(7) "Cross connection" means any physical arrangement whereby a public water supply is connected, directly or indirectly, with any other water supply system, sewer, drain, conduit, pool, storage reservoir, plumbing fixture or other device which contains, or may contain, contaminated water, sewage or other waste or liquid of unknown or unsafe quality which may be capable of imparting contamination to the public water supply as a result of backflow. Bypass arrangements, jumper connections, removable sections, swivel or change-over devices through which, or because of which, backflow could occur are considered to be cross-connections;

(8) "Department" means the department of environment and conservation;

(9) "Director" means the director of the division of water supply;

(10) "Division" means the division of water supply of the department;

(11) "Drinking water regulations" means regulations promulgated pursuant to this part;

(12) "Federal act" means the Safe Drinking Water Act, P.L. 93-523, as amended;

(13) "Ground water" means water beneath the surface of the ground, whether or not flowing through known or definite channels;

(14) "Lead free" means:

(A) Not containing more than two-tenths of one percent (0.2%) lead when used with respect to solder and flux; and

(B)(i) Not more than a weighted average of twenty-five hundredths of one percent (0.25%) lead when used with respect to the wetted surfaces of pipes, pipe fittings, plumbing fittings, and fixtures;

(ii) The weighted average lead content of a pipe, pipe fitting, plumbing fitting, or fixture shall be calculated by using the following formula: For each wetted component, the percentage of lead in the component shall be multiplied by the ratio of the wetted surface area of that component to the total wetted surface area of the entire product to arrive at the weighted percentage of lead of the component. The weighted percentage of lead of each wetted component shall be added together, and the sum of these weighted percentages shall constitute the weighted average lead content of the product;

(iii) The lead content of the material used to produce wetted components shall be used to determine compliance with this subdivision

(14)(B);

(iv) For lead content of materials that is provided as a range, the maximum content of the range shall be used;

(15) "Maximum contaminant level" means the maximum permissible level of a contaminant in water which is delivered to any user of a public water system;

(16) "National primary drinking water regulations" means primary drinking water regulations, as amended, promulgated by the administrator pursuant to the federal act;

(17) "Person" means any and all persons, including individuals, firms, partnerships, associations, public or private institutions, state and federal agencies, municipalities or political subdivisions, or officers thereof, departments, agencies, or instrumentalities, or public or private corporations or officers thereof, organized or existing under the laws of this or any other state or country;

(18) "Primary drinking water regulations" are regulations promulgated by the board in accordance with this part which specify contaminants which may have any adverse effect on the health of persons, and which specify a maximum contaminant level for each such contaminant and monitoring, reporting and record-keeping requirements as determined by the board;

(19) **Public Water System.**

(A) **In general.** "Public water system" means a system for the provision of water for human consumption through pipes or other constructed conveyances, if such serves fifteen (15) or more connections or which regularly serves twenty-five (25) or more individuals daily at least sixty (60) days out of the year. A public water system includes:

(i) Any collection, treatment, storage or distribution facility under control of the operator of such system and used primarily in connection with such system; and

(ii) Any collection or pretreatment storage facility not under such control which is used primarily in connection with such system.

(B) **Connection.**

(i) **In general.** For purposes of subdivision (19)(A), a connection to a system that delivers water by a conveyance other than a pipe shall not be considered a connection, if:

(a) The water is used exclusively for purposes other than residential uses (consisting of drinking, bathing, and cooking, or other similar uses);

(b) The commissioner determines that alternative water to achieve the equivalent level of public health protection provided by the applicable national primary drinking water regulation is provided for residential or similar uses for drinking and cooking; or

(c) The commissioner determines that the water provided for residential or similar uses for drinking, cooking and bathing is centrally treated or treated at the point of entry by the provider, a pass through entity, or the user to achieve the equivalent level of protection provided by the applicable national primary drinking water regulations.

(ii) **Irrigation Districts.** An irrigation district in existence prior to May 18, 1994, that provides primarily agricultural service through a piped water system with only incidental residential or similar use shall

not be considered to be a public water system if the system or the residential or similar users of the system comply with subdivision (19)(B)(i)(*b*) or (*c*).

(20) "Secondary drinking water regulations" means regulations which apply to public water systems and which specify the maximum contaminant levels which, in the judgment of the board, are requisite to protect the public welfare. Such regulations may apply to any contaminant in drinking water which may:

(A) Adversely affect the odor or appearance of such water and consequently may cause a substantial number of persons served by the public water system providing such water to discontinue its use; or

(B) Otherwise adversely affect the public welfare;

(21) "Streams" includes any river, creek, slough or natural water course in which water usually flows in a defined bed or channel. It is not essential that the flowing be uniform or uninterrupted. The fact that some parts of the bed or channel have been dredged or improved does not prevent the water course from being a stream;

(22) "Supplier of water" means any person who owns, operates or controls a public water system;

(23) "Surface water" includes waters upon the surface of the earth in bounds created naturally or artificially including, but not limited to, streams, other water courses, lakes and reservoirs; and

(24) "Waters" means any and all water, public or private, on or beneath the surface of the ground, which are contained within, flow through, or border upon Tennessee, or any portion thereof, except those bodies of water confined to and retained within the limits of private property in single ownership which do not combine or effect a junction with natural surface or underground waters.

68-221-1008. Wastewater financing board — Created — Responsibility — Members — Terms — Expenses — Quorum — Conflict of interest — Records — Duties of director.

(a)(1) A water and wastewater financing board is established in the office of the comptroller of the treasury to determine and ensure the financial integrity of certain water systems and wastewater facilities.

(2) The board is charged with the responsibility of furthering the legislative objective of self-supporting water systems and wastewater facilities in this state and shall be deemed to be acting for the public welfare in carrying out §§ 68-221-1007 — 68-221-1012.

(b) Such board shall be composed of the following members:

(1) The comptroller of the treasury, or the comptroller's designee, who shall serve as chair;

(2) The commissioner, or the commissioner's designee;

(3) One (1) member, appointed by the governor, who shall represent the municipalities of the state. The governor shall consult with the president of the Tennessee municipal league to determine a qualified person to fill this post;

(4) One (1) member, appointed by the governor, who shall represent utility districts in the state. The governor shall consult with the president of the Tennessee Association of Utility Districts to determine a qualified person to

fill this post;

(5) One (1) member, appointed by the governor, who shall represent the environmental interests of the state. The governor shall consult with the president of the Tennessee environmental council to determine a qualified person to fill this post;

(6) One (1) member appointed by the governor, who shall represent the manufacturing interests in the state. The governor shall consult with the president of the Tennessee Association of Business to determine a qualified person to fill this post;

(7) One (1) member, appointed by the governor, who shall represent the minority citizens of the state. Such member shall have experience in governmental finance and shall not otherwise be a state employee;

(8) One (1) member appointed by the governor, who is an active employee of a municipal water utility and one (1) member who is an active employee of a water utility district. The governor shall consult with the president of the Tennessee Association of Utility Districts to determine qualified persons to fill these appointments.

(c)(1) Board members shall serve for a three-year term except as designated herein, and all appointments shall expire on June 30 of the appropriate year. A board member shall continue to serve, however, until a successor has been appointed, or until the board member has been reappointed.

(2) Appointments to succeed a board member who is unable to serve such board member's full term shall be for the remainder of that term.

(3) Board members may be reappointed, but they do not succeed themselves automatically.

(4) Appointments to the board for the remainder of an unexpired term and reappointments shall be made in the same manner as under subsection (b).

(d) Each member of the board shall be entitled to receive reimbursement for such member's traveling and other necessary expenses actually incurred while engaged in the performance of any official duties when so authorized by the board, but such expenses shall be made in accordance with the comprehensive state travel regulations duly promulgated by the commissioner of finance and administration and approved by the attorney general and reporter.

(e) A majority of the board shall constitute a quorum and the concurrence of a majority of those present and voting in any matter shall be required for a determination of matters within its jurisdiction.

(f) No board member may participate in making a decision in any case involving a local government or water system or wastewater facility in which the board member has a direct financial interest, including a contract of employment.

(g) The board shall keep complete and accurate records of the proceedings of all their meetings. All such records shall be kept on file in the office of the comptroller and open to public inspection.

(h) The comptroller shall designate a staff person to serve as the technical secretary to the board. In that capacity, the designee shall report the proceedings of the board and perform such other duties as the board may require.

(i) For the purposes of this part, "water systems and wastewater facilities" includes:

(1) Any county, metropolitan government, or incorporated town or city empowered to provide water or wastewater services; and

(2) Any treatment authority, created pursuant to part 6 or part 13 of this chapter, or by any public or private act of the general assembly, that operates a water or wastewater facility. The treatment authorities shall file or cause to be filed with the comptroller independently prepared audited financial statements.

(j) The entities listed in subsection (i) are subject to the jurisdiction of the water and wastewater financing board in accordance with this chapter.

68-221-1010. Facilities with earnings or operating deficit, or operating in default.

(a)(1) Within sixty (60) days from the time that an audit of a water system or wastewater facility is filed with the comptroller of the treasury, the comptroller of the treasury shall file with the board the audited annual financial report of any water system or wastewater facility that has a deficit total net position in any one (1) year, has a negative change in net position for two (2) consecutive years, or is currently in default on any of its debt instruments. For purposes of this section, "change in net position" means total revenues less all grants, capital contributions, and expenses, but without reduction for any excluded non-cash items. For purposes of this section, "excluded non-cash items" means any non-cash charges arising from changes to or the implementation of pension and other post-employment benefit standards promulgated by the governmental accounting standards board.

(2) Notwithstanding any other law to the contrary, a government joint venture that supplies or treats water or wastewater for wholesale use only to other governments shall not fall under the jurisdiction of the water and wastewater financing board for the purpose of reporting negative change in the net position annually, but must be referred to the board if the government joint venture is in a deficit or default position as provided herein.

(b)(1) Within sixty (60) days from the receipt of the audited annual financial report filed by the comptroller of the treasury, the board shall schedule a hearing to determine whether the water system or wastewater facility described in the report is likely to continue in a deficit position. In reaching its determination, the board shall consider current user rates charged by the water system or wastewater facility, the size of the facility and the local government served by it, the quality of the facility's operation and management, and other relevant criteria.

(2) Upon a determination that the water system or wastewater facility is likely to remain in a deficit position, the board may order the management of the water system or wastewater facility to adopt and maintain user rate structures necessary to:

(A) Fund operation, maintenance, principal and interest obligations and adequate depreciation to recover the cost of the water system or wastewater facility over its useful life;

(B) Liquidate in an orderly fashion any deficit in total net position; and

(C) Cure a default on any indebtedness of the water system and wastewater facility.

(3) Any such order shall become final and not subject to review unless the parties named therein request by written petition a hearing before the board, as provided in §§ 68-221-1007 — 68-221-1013, no later than thirty

(30) days after the date such order is served. Any hearing or rehearing provided by §§ 68-221-1007 — 68-221-1013 shall be brought pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, part 3. Such hearing may be conducted by the board at a regular or special meeting by any member or panel of members as designated by the chair to act on its behalf, or the chair may designate an administrative judge who shall have the power and authority to conduct hearings in the name of the board to issue initial orders pursuant to the Uniform Administrative Procedures Act.

(c) In the event a water system and wastewater facility fails to adopt user rate structures pursuant to a final order of the board, the board may petition the chancery court in a jurisdiction in which the water system and wastewater facility is situated or in the chancery court of Davidson County to require the adoption of the user rate structures ordered by the board or to obtain other remedial action, which, in the discretion of the court, may be required to cause the water system and wastewater facility to be operated in a financially self-sufficient manner.

(d)(1) Within sixty (60) days from the time that an audit of a water system is filed with the comptroller of the treasury, the comptroller of the treasury shall file with the board the audited annual financial report of any water system whose water loss as reported in the audit is excessive as established by rules promulgated by the board. Failure of the water system to include the schedule required in this section constitutes excessive water loss and the water system shall be referred to the water and wastewater financing board.

(2) In the event a water system fails to take the appropriate actions required by the board to reduce the water loss to an acceptable level pursuant to § 68-221-1009(a)(7), the board may petition the chancery court in a jurisdiction in which the water system is operating to require the water system to take such actions.

(3) By February 1 of each year, the comptroller of the treasury shall provide a written report to the speaker of the house of representatives and the speaker of the senate listing the average annual water loss contained in the annual audit for those utility systems described in § 68-221-1007.

68-221-1111. Water quality regulation authority not limited by this part. [Contingent amendment. See second version of section and the Compiler's Notes.]

Nothing herein shall be construed to limit the power or authority of the department of environment and conservation or of the Tennessee board of water quality, oil and gas with respect to regulation of the waters of the state. Any ordinances or regulations adopted or imposed by municipalities shall be subject to regulation and oversight by the department of environment and conservation or the Tennessee board of water quality, oil and gas.

68-221-1111. Water quality regulation authority not limited by this part. [Contingent amendment. See first version of section and the Compiler's Notes.]

Nothing herein shall be construed to limit the power or authority of the department of environment and conservation or of the Tennessee board of energy and natural resources with respect to regulation of the waters of the

state. Any ordinances or regulations adopted or imposed by municipalities shall be subject to regulation and oversight by the department of environment and conservation or the Tennessee board of energy and natural resources.

69-3-103. Part definitions. [See contingent amendment to subdivisions (4) and (19) and the Compiler's Notes.]

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

(1) "Administrator" means the administrator, or head by whatever name, of the United States environmental protection agency;

(2) "Animal feeding operation" means a lot or facility, other than an aquatic animal production facility, where the following conditions are met:

(A) Animals, other than aquatic animals, have been, are, or will be stabled or confined and fed or maintained for a total of forty-five (45) days or more in any twelve-month period; and

(B) Crops, vegetation, forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility;

(3) "Areawide waste treatment management plan" means a plan that has been approved by the administrator pursuant to § 208 of the Federal Water Pollution Control Act, Public Law 92-500, codified in 33 U.S.C. § 1288;

(4) **[Current version. See second version for contingent amendment and Compiler's Notes.]** "Board" means the board of water quality, oil and gas, created in § 69-3-104;

(4) **[Contingent amendment. See the Compiler's Notes.]** "Board" means the Tennessee board of energy and natural resources, created by § 69-3-104;

(5) "Boat" means any vessel or watercraft moved by oars, paddles, sails or other power mechanism, inboard or outboard, or any vessel or structure floating upon the water whether or not capable of self-locomotion, including, but not limited to, houseboats, barges, docks, and similar floating objects;

(6) "Commissioner" means the commissioner of environment and conservation or the commissioner's duly authorized representative and, in the event of the commissioner's absence or a vacancy in the office of commissioner, the deputy commissioner;

(7) "Construction" means any placement, assembly, or installation of facilities or equipment, including contractual obligations to purchase such facilities or equipment, at the premises where such equipment will be used, including preparation work at such premises;

(8) "Department" means the department of environment and conservation;

(9) "Director" means the director of the division of water management of the department;

(10) "Discharge of a pollutant," "discharge of pollutants," and "discharge," when used without qualification, each refer to the addition of pollutants to waters from a source;

(11) "Division" means the division of water management;

(12) "Effluent limitation" means any restriction, established by the board or the commissioner, on quantities, rates and concentrations of chemical, physical, biological, and other constituents that are discharged into waters or adjacent to waters;

(13) "Forestry best management practices" means those land and water resource conservation measures that prevent, limit, or eliminate water pollution for forest resource management purposes, as provided in rules promulgated in this part in accordance with § 11-4-301(d)(18). Until those rules are effective, "forestry best management practices" will be those that have been developed by the division of forestry of the department of agriculture. The commissioner of agriculture shall specifically identify these interim forestry best management practices prior to September 1, 2000;

(14) "Industrial user" means those industries identified in the standard industrial classification manual, bureau of the budget, 1967, as amended and supplemented, under the category "Division D — Manufacturing" and such other classes of significant waste producers as the board or commissioner deems appropriate;

(15) "Industrial wastes" means any liquid, solid, or gaseous substance, or combination thereof, or form of energy including heat, resulting from any process of industry, manufacture, trade, or business or from the development of any natural resource;

(16) "Liquid waste management system" means a waste management system that collects, stores, or land applies manure in a liquid, flowable form;

(17) "Local administrative officer" means the chief administrative officer of a pretreatment agency that has adopted and implemented an approved pretreatment program pursuant to this part and 33 U.S.C. § 1251 et seq. and 40 CFR 403.1 et seq.;

(18) "Local hearing authority" means the administrative board created pursuant to an approved pretreatment program that is responsible for the administration and enforcement of that program and §§ 69-3-123 — 69-3-129;

(19) **[Current version. See second version for contingent amendment and Compiler's Notes.]** "Member" means a member of the board of water quality, oil and gas;

(19) **[Contingent amendment. See the Compiler's Notes.]** "Member" means a member of the Tennessee board of energy and natural resources;

(20) "Municipal separate storm sewer system" means a municipal separate storm sewer system as defined in the Clean Water Act, compiled in 33 U.S.C. § 1251 et seq., and the rules promulgated thereunder;

(21) "New source" means any source, the construction of which is commenced after the publication of state or federal regulations prescribing a standard of performance applicable to such source;

(22) "Obligate lotic aquatic organisms" means organisms that require flowing water for all or almost all of the aquatic phase of their life cycles;

(23) "Operator" as used in the context of silvicultural activities, means any person who conducts or exercises control over any silvicultural activities; provided, however, that the term "operator" does not include an owner if the silvicultural activities are being conducted by an independent contractor;

(24) "Other wastes" means any and all other substances or forms of energy, with the exception of sewage and industrial wastes, including, but not limited to, decayed wood, sand, garbage, silt, municipal refuse, sawdust, shavings, bark, lime, ashes, offal, oil, hazardous materials, tar, sludge, or other petroleum byproducts, radioactive material, chemicals, heated sub-

stances, dredged spoil, solid waste, incinerator residue, sewage sludge, munitions, biological materials, wrecked and discarded equipment, rock, and cellar dirt;

(25) "Owner" as used in the context of silvicultural activities, means any person or persons that own or lease land on which silvicultural activities occur or own timber on land on which silvicultural activities occur;

(26) "Owner or operator" means any person who owns, leases, operates, controls, or supervises a source;

(27) "Person" means any and all persons, including individuals, firms, partnerships, associations, public or private institutions, state and federal agencies, municipalities or political subdivisions, or officers thereof, departments, agencies, or instrumentalities, or public or private corporations or officers thereof, organized or existing under the laws of this or any other state or country;

(28) "Pollutant" means sewage, industrial wastes, or other wastes;

(29) "Pollution" means such alteration of the physical, chemical, biological, bacteriological, or radiological properties of the waters of this state, including, but not limited to, changes in temperature, taste, color, turbidity, or odor of the waters that will:

(A) Result or will likely result in harm, potential harm or detriment to the public health, safety, or welfare;

(B) Result or will likely result in harm, potential harm or detriment to the health of animals, birds, fish, or aquatic life;

(C) Render or will likely render the waters substantially less useful for domestic, municipal, industrial, agricultural, recreational, or other reasonable uses; or

(D) Leave or likely leave the waters in such condition as to violate any standards of water quality established by the board;

(30) "Pretreatment agency" means the owner of a publicly owned treatment works permitted pursuant to this part that is required by its permit to adopt and enforce an approved pretreatment program that complies with this part and 33 U.S.C. § 1251 et seq. and 40 CFR 403.1 et seq.;

(31) "Pretreatment program" means the rules, regulations, and/or ordinances of a pretreatment agency regulating the discharge and treatment of industrial waste that complies with this part and 33 U.S.C. § 1251 et seq. and 40 CFR 403.1 et seq.;

(32) "Qualified local program" means a municipal separate storm sewer system that has been approved as such by the department pursuant to this part;

(33) "Regional administrator" means the regional administrator of the United States environmental protection agency whose region includes Tennessee, or any person succeeding to the duties of this official;

(34) "Schedules of compliance" means a schedule of remedial measures including an enforceable sequence of actions or operations leading to compliance with an effluent limitation, condition of a permit, other limitation, prohibition, standard, or regulation;

(35) "Sewage" means water-carried waste or discharges from human beings or animals, from residences, public or private buildings, or industrial establishments, or boats, together with such other wastes and ground, surface, storm, or other water as may be present;

(36) "Sewerage system" means the conduits, sewers, and all devices and appurtenances by means of which sewage and other waste is collected,

pumped, treated, or disposed;

(37) "Silvicultural activities" means those forest management activities associated with the harvesting of timber and including, without limitation, the construction of roads and trails;

(38) "Source" means any activity, operation, construction, building, structure, facility, or installation from which there is or may be the discharge of pollutants;

(39) "Standard of performance" means a standard for the control of the discharge of pollutants that reflects the greatest degree of effluent reduction that the commissioner determines to be achievable through application of the best available demonstrated control technology, processes, operating methods, or other alternatives, including, where practicable, a standard permitting no discharge of pollutants;

(40) "Stop work order" means an order issued by the commissioner of environment and conservation requiring the operator to immediately cease part or all silvicultural activities;

(41) "Stream" means a surface water that is not a wet weather conveyance;

(42) "Toxic effluent limitation" means an effluent limitation on those pollutants or combinations of pollutants, including disease-causing agents, which after discharge and upon exposure, ingestion, inhalation or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, will, on the basis of available information, cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions, including malfunctions in reproduction, or physical deformations, in such organisms or their offspring;

(43) "Variance" means an authorization issued to a person by the commissioner that would allow that person to cause a water quality standard to be exceeded for a limited time period without changing the standard;

(44) "Watercourse" means a man-made or natural hydrologic feature with a defined linear channel that discretely conveys flowing water, as opposed to sheet-flow;

(45) "Waters" means any and all water, public or private, on or beneath the surface of the ground, that are contained within, flow through, or border upon Tennessee or any portion thereof, except those bodies of water confined to and retained within the limits of private property in single ownership that do not combine or effect a junction with natural surface or underground waters; and

(46) "Wet weather conveyance" means, notwithstanding any other law or rule to the contrary, man-made or natural watercourses, including natural watercourses that have been modified by channelization:

(A) That flow only in direct response to precipitation runoff in their immediate locality;

(B) Whose channels are at all times above the groundwater table;

(C) That are not suitable for drinking water supplies; and

(D) In which hydrological and biological analyses indicate that, under normal weather conditions, due to naturally occurring ephemeral or low flow there is not sufficient water to support fish, or multiple populations of obligate lotic aquatic organisms whose life cycle includes an aquatic phase of at least two (2) months.

69-3-104. Board of water quality, oil, and gas. [See contingent amendment to subdivisions (a)(1), (4) and (13) and the Compiler's Notes.]

(a)(1) **[Current version. See second version for contingent amendment and Compiler's Notes.]** There is hereby created and established the Tennessee board water quality, oil, and gas, referred to as the "board" in this part, which shall be composed of twelve (12) members as follows:

(A) The commissioner of environment and conservation, who shall be the chair of the board;

(B) The commissioner of health;

(C) The commissioner of agriculture; and

(D) Nine (9) citizen members appointed by the governor for terms of four (4) years.

(1) **[Contingent amendment. See the Compiler's Notes.]** There is hereby created and established the Tennessee board of energy and natural resources, referred to in this part as the "board," which shall be composed of fourteen (14) members as follows:

(A) The commissioner of environment and conservation, who shall be the chair of the board;

(B) The commissioner of health;

(C) The commissioner of agriculture; and

(D) Eleven (11) citizen members appointed by the governor for terms of four (4) years;

(2) Each ex officio member may, by official order filed with the director, designate a representative from such member's staff who shall have the powers and be subject to the duties and responsibilities of the ex officio member designating the representative, except that the representative designated by the commissioner of environment and conservation shall not serve as chair.

(3) The board shall annually elect a vice chair from among its members, who shall preside over all meetings at which the chair is not present.

(4) **[Current version. See second version for contingent amendment and Compiler's Notes.]**

(A) The citizen members of the board shall be appointed as follows:

(i) One (1) of the nine (9) citizen members shall be from the public-at-large. The public member's occupation shall not be in the same primary area of interest as any other citizen member of the board;

(ii) One (1) member shall represent environmental interests and may be appointed from lists of qualified persons submitted by interested conservation groups including, but not limited to, the Tennessee conservation league;

(iii) One (1) member shall represent counties and may be appointed from lists of qualified persons submitted by interested county services groups including, but not limited to, the County Services Association;

(iv) One (1) member shall represent agricultural interests and may be appointed from lists of qualified persons submitted by interested farm business groups including, but not limited to, the Tennessee Farm Bureau;

(v) One (1) member shall represent the municipalities of the state and may be appointed from lists of qualified persons submitted by interested municipal groups including, but not limited to, the Tennessee

Municipal League;

(vi) One (1) member shall represent small generators of water pollution and may be appointed from lists of qualified persons submitted by interested automotive groups including, but not limited to, the Tennessee Automotive Association;

(vii) One (1) member shall represent manufacturing industries and have current full-time employment with a manufacturing concern in Tennessee, shall hold a college degree in engineering or the equivalent, and shall have at least eight (8) years of combined technical training and experience in national pollutant discharge elimination system (NPDES) permit compliance and management of wastewater or water treatment facilities, and may be appointed from lists of qualified persons submitted by interested business groups including, but not limited to, the Tennessee Chamber of Commerce and Industry;

(viii) One (1) member shall represent the oil and gas industry; and

(ix) One (1) member shall represent oil or gas property owners.

(B) The governor shall consult with the interested groups described in subdivision (a)(4)(A) to determine qualified persons to fill the citizen member positions on the board.

(4) **[Contingent amendment. See the Compiler's Notes.]**

(A) The citizen members of the board shall be appointed as follows:

(i) One (1) of the eleven (11) citizen members shall be from the public-at-large. The public member's occupation shall not be in the same primary area of interest as any other citizen member of the board;

(ii) One (1) member shall represent environmental interests and may be appointed from lists of qualified persons submitted by interested conservation groups including, but not limited to, the Tennessee conservation league;

(iii) One (1) member shall represent counties and may be appointed from lists of qualified persons submitted by interested county services groups including, but not limited to, the County Services Association;

(iv) One (1) member shall represent agricultural interests and may be appointed from lists of qualified persons submitted by interested farm business groups including, but not limited to, the Tennessee Farm Bureau;

(v) One (1) member shall represent the municipalities of the state and may be appointed from lists of qualified persons submitted by interested municipal groups including, but not limited to, the Tennessee Municipal League;

(vi) One (1) member shall represent small generators of water pollution and may be appointed from lists of qualified persons submitted by interested automotive groups including, but not limited to, the Tennessee Automotive Association;

(vii) One (1) member shall represent manufacturing industries and have current full-time employment with a manufacturing concern in Tennessee, shall hold a college degree in engineering or the equivalent, and shall have at least eight (8) years of combined technical training and experience in national pollutant discharge elimination system (NPDES) permit compliance and management of wastewater or water treatment facilities, and may be appointed from lists of qualified persons submitted by interested business groups including, but not limited to, the

Tennessee Chamber of Commerce and Industry;

(viii) One (1) member shall represent the oil and gas industry;

(ix) One (1) member shall represent oil or gas property owners;

(x) One (1) member shall represent the coal mining industry and shall be appointed from lists of qualified persons submitted by interested mining industry groups including, but not limited to, the Tennessee Mining Association; and

(xi) One (1) member shall represent owners of coal reserves and shall be appointed from lists of qualified persons submitted by interested mining industry groups including, but not limited to, the Tennessee Mining Association.

(B) The governor shall consult with the interested groups described in subdivision (a)(4)(A) to determine qualified persons to fill the citizen member positions on the board.

(5) Each appointive member shall be a resident and domiciliary of the state of Tennessee.

(6) No member shall be appointed, unless at the time of the member's appointment, the member or the member's employer is in compliance with this part as certified by the commissioner.

(7) The three (3) ex officio members shall hold their positions on the board throughout their respective terms and until the appointment of their successors as such.

(8) All appointments of citizen members shall be for a full four-year term.

(9) Any appointive member who is absent from three (3) consecutive, regularly scheduled meetings shall be removed from the board by the governor.

(10) Upon the death, resignation, or removal of any appointive member, the governor shall appoint some person representing the same area of interest as the member whose position has been vacated to fill the unexpired term of such member.

(11) Appointive members shall continue to serve until a successor has been appointed.

(12) In making appointments to the board, the governor shall strive to ensure that at least one (1) person appointed to serve on the board is sixty (60) years of age or older and that at least one (1) person appointed to serve on the board is a member of a racial minority.

(13) **[Current version. See second version for contingent amendment and Compiler's Notes.]**

(A) Notwithstanding subdivision (a)(8), the terms of the appointive members of the board serving on July 1, 2014, shall terminate as follows:

(i) The terms of the members appointed under subdivisions (a)(4)(A)(i) and (ii) shall terminate on September 30, 2016;

(ii) The terms of the members appointed under subdivisions (a)(4)(A)(iii) and (iv) shall terminate on September 30, 2017;

(iii) The terms of the members appointed under subdivisions (a)(4)(A)(v) and (vi) shall terminate on September 30, 2018; and

(iv) The terms of the members appointed under subdivisions (a)(4)(A)(vii), (viii) and (ix) shall terminate on September 30, 2019.

(B) The terms of all members appointed for terms beginning after September 30, 2016, shall be for four (4) years.

(13) **[Contingent amendment. See the Compiler's Notes.]**

(A) Notwithstanding subdivision (a)(8), the terms of the appointive members of the board serving on July 1, 2014, shall terminate as follows:

(i) The terms of the members appointed under subdivisions (a)(4)(A)(i) and (ii) shall terminate on September 30, 2016;

(ii) The terms of the members appointed under subdivisions (a)(4)(A)(iii) and (iv) shall terminate on September 30, 2017;

(iii) The terms of the members appointed under subdivisions (a)(4)(A)(v) and (vi) shall terminate on September 30, 2018;

(iv) The terms of the members appointed under subdivisions (a)(4)(A)(vii), (viii) and (ix) shall terminate on September 30, 2019; and

(v) Notwithstanding the term limitations prescribed in subdivision (a)(13)(B):

(a) The term of the member appointed under subdivision (a)(4)(A)(x) shall terminate on September 30 in the year five (5) years after the effective date of this act [See Compiler's Notes.]; and

(b) The term of the member appointed under subdivision (a)(4)(A)(xi) shall terminate on September 30 in the year six (6) years after the effective date of this act [See Compiler's Notes.].

(B) The terms of all members appointed for terms beginning after September 30, 2016, shall be for four (4) years.

(b)(1) The state shall ensure that those members of the board who do not receive, or during the previous two (2) years have not received, a significant portion of their income directly or indirectly from permit holders or applicants for a permit shall hear all appeals on permit matters. If the chair is not eligible to hear any permit matter, the members of the board shall select a member by majority vote to serve as chair. An ex officio member of the board who is not eligible to hear a permit matter shall designate a representative to serve on the board for that purpose in accordance with subsection (a). Board member participation in permit matters shall also be in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, part 3, in addition to the provisions set forth in subdivisions (b)(2)-(6) and subsection (h).

(2) For the purposes of this section, "significant portion of their income" means ten percent (10%) of gross personal income for a calendar year, except that it means fifty percent (50%) of gross personal income for a calendar year if the recipient is over sixty (60) years of age and is receiving such portion pursuant to retirement, pension, or similar arrangement.

(3) For the purposes of this section, "permit holders or applicants for a permit" does not include any department or agency of the state.

(4) For the purposes of this section, "income" includes retirement benefits, consultant fees, and stock dividends.

(5) For the purposes of this section, income is not received "directly or indirectly from permit holders or applicants for a permit" where it is derived from mutual fund payments, or from other diversified investments over which the recipient does not know the identity of the primary sources of income. If members other than the ex officio members are not qualified, then the seven (7) citizen members who are not ex officio members shall select, by agreement, qualified temporary replacements to serve for the duration of any proceeding before the board.

(6) For the purposes of this subsection (b), "permit" means national

pollutant discharge elimination system (NPDES) permit.

(c) Each member of the board, other than the ex officio member, shall be entitled to be paid fifty dollars ($50.00) for each day actually and necessarily employed in the discharge of official duties, and each member shall be entitled to receive the amount of such member's traveling and other necessary expenses actually incurred while engaged in the performance of any official duties when so authorized by the board, but such expenses shall be made in accordance with the comprehensive state travel regulations promulgated by the commissioner of finance and administration and approved by the attorney general and reporter.

(d) The board shall have two (2) regularly scheduled meetings each year, one (1) in October and one (1) in April. Special meetings may be called by the chair at any time and shall be called as soon as possible by the chair on the written request of two (2) members. Regular meetings of the panel shall be held as necessary to review permit matters. All members shall be duly notified by the technical secretary of the time and place of any regular or special meeting at least five (5) days in advance of such meeting. The majority of the board constitutes a quorum and the concurrence of a majority of those present and voting in any matter within its duties shall be required for a determination of matters within its jurisdiction.

(e) The board shall keep complete and accurate records of the proceedings of all their meetings, a copy of which shall be kept on file in the office of the director and open to public inspection.

(f) The director shall serve as the technical secretary of the board. In that capacity, the member shall report the proceedings of the board pursuant to § 69-3-110 and perform such other duties as the board may require.

(g)(1) If the board incurs a vacancy, it shall notify the appointing authority in writing within ninety (90) days after the vacancy occurs. All vacancies on the board, other than ex officio members, shall be filled by the appointing authority within ninety (90) days of receiving written notice of the vacancy and of providing sufficient information for the appointing authority to make an informed decision in regard to filling such vacancy. If such sufficient information has been provided and the board has more than one (1) vacancy that is more than one hundred eighty (180) days in duration, such board shall report to the house of representatives and senate government operations committees why such vacancies have not been filled.

(2) If more than one half (½) of the positions on the board are vacant for more than one hundred eighty (180) consecutive days, the board shall terminate, provided that such board shall wind up its affairs pursuant to § 4-29-112. If the board is terminated pursuant to this subdivision (g)(2), it shall be reviewed by the evaluation committees pursuant to the Uniform Administrative Procedures Act before ceasing all its activities. Nothing in this section shall prohibit the general assembly from continuing, restructuring, or reestablishing the board.

(h) No member of the board shall participate in making any decision upon a permit or upon a case in which the municipality, firm or organization which the member represents, or by which the member is employed, or in which the member has a direct substantial financial interest, is involved.

69-3-105. Duties and authority of the board. [See contingent amendment to subdivision (e)(1)(C) and the Compiler's Notes.]

(a)(1) The board has and shall exercise the power, duty, and responsibility to establish and adopt standards of quality for all waters of the state.

(2) The general assembly recognizes that, due to various factors, no single standard of quality and purity is applicable to all waters of the state or to different segments of the same waters. It also recognizes the suitability of certain geologic formations for the placement of fluids and other substances through underground injection; provided, that adequate protection can be afforded the geologic formations. The board shall classify all waters of the state and adopt water quality standards pursuant to such classifications. Such classifications shall be made in accordance with the declaration of policy and purpose in § 69-3-102. In preparing the classification of waters and the standards of quality mentioned above, the board shall give consideration to:

(A) The size, depth, surface area covered, volume, direction and rate of flow, stream gradient, and temperature of the water;

(B) The character of the land bordering, overlying or underlying the waters of the state and its particular suitability for particular uses, with a view to conserving the value of that land, encouraging the most appropriate use of the same for economic, residential, agricultural, industrial, recreational and conservation purposes;

(C) The past, present, and potential uses of the waters for transportation, domestic and industrial consumption, recreation, fishing and fish culture, fire prevention, the disposal of sewage, industrial and other wastes, and other possible uses.

(3) The state water quality plan provided for in subsection (e) shall contain standards of quality and purity for each of the various classes of water in accordance with the best interests of the public. In preparing such standards, the board shall give due consideration to all physical, chemical, biological, bacteriological, or radiological properties that may be necessary for preserving the quality and purity of the waters of the state.

(4) The board may amend and revise such standards and classifications, including revisions to improve and upgrade the quality of water.

(b) The board has and shall exercise the power, duty, and responsibility to adopt, modify, repeal, promulgate after due notice and enforce rules and regulations that the board deems necessary for the proper administration of this part, the prevention, control, and abatement of pollution, or the modification of classifications and the upgrading of the standards of quality in accordance with subsection (a).

(c) The board has and shall exercise the power, duty, and responsibility to adopt, modify, repeal, and promulgate, after due notice, all necessary rules and regulations for the purpose of controlling the discharge of sewage, other wastes, and other substances from any boats.

(d) Prior to classifying or reclassifying waters of the state, or adopting, amending, or revising standards of quality for waters of the state, or promulgating, adopting, modifying, or repealing rules and regulations, or adopting, amending, or revising water quality plans, or area-wide waste treatment plans, the board shall conduct, or cause to be conducted, public hearings in connection therewith. Notice of any public hearing shall be given not less than

thirty (30) days before the date of such hearing and shall state the date, time, and place of hearing, and the subject of the hearing. Any such notice shall be published at least once in one (1) newspaper of general public circulation circulated within the area of the state in which the water affected is located. Any person within the area of the state in which the water affected is located may contact the board and request to be placed on a notification registry, which includes such person's full name, mailing address, and telephone number. The board shall notify in writing all persons on such notification registry as to the date, time, and place of hearing, and the subject of the hearing, ten (10) days before the hearing. Any person who desires to be heard relative to water quality matters at any such public hearing shall give notice thereof in writing to the board on or before the first date set for the hearing. The board is authorized to set reasonable time limits for the oral presentation of views by any person at any such public hearing.

(e)(1) The board has and shall exercise the power, duty, and responsibility to proceed without delay to formulate and adopt a state water quality plan, which shall consist of the following:

(A) Water quality standards as outlined in subsection (a);

(B) Water quality objectives for planning and operation of water resource development projects, for water quality control activities, and for the improvement of existing water quality;

(C) **[Current version. See second version for contingent amendment and Compiler's Notes.]** Other principles and guidelines deemed essential by the board of water quality, oil and gas; and

(C) **[Contingent amendment. See the Compiler's Notes.]** Other principles and guidelines deemed essential by the board; and

(D) A program of implementation for those waters that do not presently meet established water quality standards.

(2) The state water quality plan shall be reviewed at least biennially and may be revised. During the process of formulating or revising the state water quality plan, the board shall consult with and carefully evaluate the recommendations of concerned federal, state, and local agencies.

(f) The board has and shall exercise the power, duty, and responsibility to:

(1) Hear appeals as specified in subsection (i) from administrative judges' orders assessing penalties or damages, or issuing, denying, revoking or modifying a permit; and

(2) Affirm, modify, or revoke such orders, as specified in subsection (i).

(g) The board has and shall exercise the power, duty, and responsibility to require the technical secretary to carry out surveys, research, and investigations into all aspects of water use and water quality.

(h)(1) The board has and shall exercise the power, duty, and responsibility to adopt, modify, repeal, and promulgate all necessary rules and regulations for the purpose of establishing and administering a comprehensive permit program that will enable the department of environment and conservation to be designated by the United States environmental protection agency as authorized to issue permits under the national pollutant discharge elimination system (NPDES) established by § 402 of the Federal Water Pollution Control Act, P.L. 92-500, codified in 33 U.S.C. § 1342.

(2) Such rules and regulations shall include provisions for:

(A) Forms and procedures for permit applications;

(B) Public notice and opportunity for public hearing on permit

applications;

(C) Promulgation and application in permits of effluent standards and limitations, water quality standards, schedules of compliance, and such other terms and conditions as are necessary to implement this part;

(D) Monitoring and inspecting effluent discharges or treatment facilities and recording and reporting the results;

(E) Enforcement of this part, rules and regulations promulgated under it, and the terms and conditions of permits; and

(F) Adoption and enforcement of permits that have been issued by the United States environmental protection agency pursuant to § 402 of the Federal Water Pollution Control Act, P.L. 92-500, codified in 33 U.S.C. § 1342.

(i) A petition for permit appeal may be filed by the permit applicant or by any aggrieved person who participated in the public comment period or gave testimony at a formal public hearing whose appeal is based upon any of the issues that were provided to the commissioner in writing during the public comment period or in testimony at a formal public hearing on the permit application. Additionally, for those permits for which the department gives public notice of a draft permit, any permit applicant or aggrieved person may base a permit appeal on any material change to conditions in the final permit from those in the draft, unless the material change has been subject to additional opportunity for public comment. Any petition for permit appeal under this subsection (i) shall be filed with the board within thirty (30) days after public notice of the commissioner's decision to issue or deny the permit. Notwithstanding § 4-5-223 or § 69-3-118(a), or any other law to the contrary, this subsection (i) and the established procedures of Tennessee's antidegradation statement, found in the rules promulgated by the department, shall be the exclusive means for obtaining administrative review of the commissioner's issuance or denial of a permit. When such a petition is timely filed, the procedure for conducting the contested case shall be in accordance with § 69-3-110(a).

(j) The board has and shall exercise the power, duty, and responsibility to adopt, modify, repeal, and promulgate all necessary rules and regulations that the board deems necessary relating to the underground placement of fluids and other substances that do or may affect the waters of the state.

(k)(1) Notwithstanding any other provisions of this title to the contrary, waters that are in areas of swamped-out bottomland hardwoods or swamped-out cropland shall be classified as protective of wildlife and humans that may come into contact with them, and shall maintain standards applicable to all downstream waters, but shall not be classified for the protection of fish and aquatic life.

(2) As used in this subsection (k):

(A) "Swamped-out bottomland hardwood" means an area subject to inundation or ponding of surface water that has resulted, or is resulting, in timber mortality or stress. The term does not include areas with a dominance of cypress or tupelo gum trees or areas in which the majority of the timber died prior to 1970; and

(B) "Swamped-out cropland" means an area that was previously in row crop cultivation or pasture, but can no longer be used for such purpose due to inundation or ponding of surface water. "Swamped-out cropland" does not include wetland areas that have not been cultivated or in pasture since

1970 because of inundation or ponding of surface water.

(*l*) The board has and shall exercise the power to adopt rules creating a system of incentives for alternatives to discharges to surface waters, such as land application and beneficial reuse of the wastewater.

(m) The commissioner shall develop and submit to the board proposed rules necessary for accurate and consistent wet weather conveyance determinations. These rules shall include at a minimum:

(1) Standard procedures for making stream and wet weather conveyance determinations that take into consideration biology, geology, geomorphology, precipitation, hydrology and other scientifically based principles; and

(2) A certification program for department staff and other persons who wish to become certified hydrologic professionals.

69-3-108. Permits.

(a) Every person who is or is planning to carry on any of the activities outlined in subsection (b), other than a person who discharges into a publicly owned treatment works or who is a domestic discharger into a privately owned treatment works, or who is regulated under a general permit as described in subsection (*l*), shall file an application for a permit with the commissioner or, when necessary, for modification of such person's existing permit.

(b) It is unlawful for any person, other than a person who discharges into a publicly owned treatment works or a person who is a domestic discharger into a privately owned treatment works, to carry out any of the following activities, except in accordance with the conditions of a valid permit:

(1) The alteration of the physical, chemical, radiological, biological, or bacteriological properties of any waters of the state;

(2) The construction, installation, modification, or operation of any treatment works, or part thereof, or any extension or addition thereto;

(3) The increase in volume or strength of any wastes in excess of the permissive discharges specified under any existing permit;

(4) The development of a natural resource or the construction, installation, or operation of any establishment or any extension or modification thereof or addition thereto, the operation of which will or is likely to cause an increase in the discharge of wastes into the waters of the state or would otherwise alter the physical, chemical, radiological, biological or bacteriological properties of any waters of the state in any manner not already lawfully authorized;

(5) The construction or use of any new outlet for the discharge of any wastes into the waters of the state;

(6) The discharge of sewage, industrial wastes or other wastes into waters, or a location from which it is likely that the discharged substance will move into waters;

(7)(A) The construction, installation, or operation of a liquid waste management system supporting an animal feeding operation that stables or confines as many as, or more than, the numbers of animals specified by federal law defining a large concentrated animal feeding operation;

(B) A state operating permit issued pursuant to this subdivision (b)(7) shall be enforceable only in regards to submission and maintenance of a current approved nutrient management plan;

(C) Animal feeding operations that are not required under this subdivision (b)(7) to have a permit may apply for and be issued a state operating

permit. An animal feeding operation issued a state operating permit pursuant to this subdivision (b)(7) is required to conduct such operations in accordance with the permit;

(8) The discharge of sewage, industrial wastes, or other wastes into a well or a location where it is likely that the discharged substance will move into a well, or the underground placement of fluids and other substances that do or may affect the waters of the state;

(9) The diversion of water through a flume for the purpose of generation of electric power by a utility; or

(10)(A) Animal feeding operations that are required under the federal Clean Water Act (33 U.S.C. § 1251 et seq.), to have a permit for concentrated animal feeding operations. Such operations must be conducted in accordance with the conditions of a valid national pollutant discharge elimination system (NPDES) permit;

(B) Animal feeding operations that are not required under the federal Clean Water Act to have a permit for concentrated animal feeding operations may apply for and, if eligible under federal law, be issued a NPDES permit. An animal feeding operation issued a NPDES permit pursuant to this subdivision (b)(10)(B) is required to conduct such operations in accordance with the permit.

(c) Any person operating or planning to operate a sewerage system shall file an application with the commissioner for a permit or, when necessary, for modification of such person's existing permit. Unless a person holds a valid permit, it is unlawful to operate a sewerage system.

(d) Nothing in this section shall be construed to require any person discharging into a septic tank connected only to a subsurface drainfield, or any person constructing or operating a sanitary landfill between March 25, 1980, and March 24, 1982, except in a county having a population of not less than sixty thousand two hundred fifty (60,250) nor more than sixty thousand three hundred fifty (60,350), according to the 1970 federal census or any subsequent federal census, as defined and regulated by §§ 68-211-101 — 68-211-115, to secure a permit; provided, that the exemption provided in this subsection (d) shall not exempt such person from any other provision of this part; and provided further, that any such person who is exempt from obtaining a permit for constructing or operating a sanitary landfill between March 25, 1980, and March 24, 1982, shall not thereafter be required to obtain such permit.

(e) Applicants for permits that would authorize a new or expanded wastewater discharge into surface waters shall include in the application consideration of alternatives, including, but not limited to, land application and beneficial reuse of the wastewater.

(f) With regard to permits for activities related to the surface mining of coal:

(1) No permit shall be issued that would allow removal of coal from the earth from its original location by surface mining methods or surface access points to underground mining within one hundred feet (100′) of the ordinary high water mark of any stream or allow overburden or waste materials from removal of coal from the earth by surface mining of coal to be disposed of within one hundred feet (100′) of the ordinary high water mark of a stream; provided, however, that a permit may be issued or renewed for stream crossings, including, but not limited to, rail crossings, utilities crossings, pipeline crossings, minor road crossings, for operations to improve the quality of stream segments previously disturbed by mining and for activities

related to and incidental to the removal of coal from its original location, such as transportation, storage, coal preparation and processing, loading and shipping operations within one hundred feet (100′) of the ordinary high water mark of a stream if necessary due to site specific conditions that do not cause the loss of stream function and do not cause a discharge of pollutants in violation of water quality criteria. Nothing in this subdivision (f)(1) shall apply to placement of material from coal preparation and processing plants;

(2) Without limiting the applicability of this section, if the commissioner determines that surface coal mining at a particular site will violate water quality standards because acid mine drainage from the site will not be amenable to treatment with proven technology both during the permit period or subsequent to completion of mining activities, the permit shall be denied.

(g) The commissioner may grant permits authorizing the discharges or activities described in subsection (b), including, but not limited to, land application of wastewater, but in granting such permits shall impose such conditions, including effluent standards and conditions and terms of periodic review, as are necessary to accomplish the purposes of this part, and as are not inconsistent with the regulations promulgated by the board. Under no circumstances shall the commissioner issue a permit for an activity that would cause a condition of pollution either by itself or in combination with others. In addition the permits shall include:

(1) The most stringent effluent limitations and schedules of compliance, either promulgated by the board, required to implement any applicable water quality standards, necessary to comply with an areawide waste treatment plan, or necessary to comply with other state or federal laws or regulations;

(2) A definite term, not to exceed five (5) years, for which the permit is valid. This term shall be subject to provisions for modification, revocation or suspension of the permit;

(3) Monitoring, recording, reporting, and inspection requirements; and

(4) In the case of permits authorizing discharges from publicly owned treatment works, terms and conditions requiring the permittee to enforce user and cost recovery charges, pretreatment standards, and toxic effluent limitations applicable to industrial users discharging into the treatment works.

(h) The commissioner may revoke, suspend, or modify any permit for cause, including:

(1) Violation of any terms or conditions of the permit or of any provision of this part;

(2) Obtaining the permit by misrepresentation or failing to disclose fully all relevant facts; or

(3) A change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge.

(i) No permit under subsection (g) or (h) for the construction of any new outlet or for construction activities involved in the development of natural resources, for the construction of a new waste treatment system or for the modification or extension of an existing waste treatment system shall be issued by the commissioner until the plans have first been submitted to and approved by the commissioner. No such approval shall be construed as creating a presumption of correct operation nor as warranting by the commissioner that

the approved facilities will reach the designated goals. If an environmental impact statement is required for any permit, the commissioner may require the applicant to pay for its preparation. Any such impact statement must also include and address economic and social impact.

(j) Any permit procedure or other action required by or undertaken in accordance with this section or part shall be conducted in accordance with title 13, chapter 18, when the permit or action involves a major energy project, as defined in § 13-18-102.

(k) Nothing in this section shall be construed to limit or circumscribe the authority of the commissioner to issue emergency orders as specified in § 69-3-109.

(*l*) Where the commissioner finds that a category of activities or discharges would be appropriately regulated under a general permit, the commissioner may issue such a permit. Any person conducting activities in the category covered by a general permit shall not be required to file individual applications for permits except as provided in specific requirements of the general permit. Any person conducting activities covered under a general permit may be required by the commissioner to file an application for any individual permit. Upon the issuance of an individual permit to a person with a general permit, the applicability of the general permit to that permitted activity or discharge shall be terminated. Any person who holds an individual permit for an activity or discharge covered under the provisions of a general permit may request that the individual permit be revoked. Upon such revocation, the activity or discharge shall become subject to the provisions of the general permit.

(m) Notwithstanding subsection (g), upon application by a person who discharges into groundwaters of the state and who is subject to a permit issued pursuant to the Hazardous Waste Management Act, compiled in title 68, chapter 212, the commissioner may issue variances from the applicable water quality standards, criteria, or classification for groundwater; provided, that:

(1) The waters to which the variance applies are not used as a current source of drinking water and such use is not reasonably anticipated for the term of the variance and a reasonable time thereafter;

(2) The applicant demonstrates that such discharges will not pose a substantial present or potential hazard to human health or the environment as defined in Tenn. Comp. R. & Reg. 1200-01-11-.06(6)(e)(2) (reserved) in effect on April 1, 1988, and will not impair any actual, current uses other than those affected by the variance;

(3) Variances will be effective for a specific term, not to exceed the effective term of the permit;

(4) The variance is consistent with the Federal Water Pollution Control Act, compiled in 33 U.S.C. § 1251 et seq., and the federal Safe Drinking Water Act, compiled in 42 U.S.C. § 300f et seq.; and

(5) The variance provided for under this subsection (m) shall be applied for and issued in accordance with procedures regarding the issuance of permits as required by regulations issued under this chapter.

(n)(1) A chief administrative officer of a county highway department does not violate this chapter by repairing or causing the repair of up to four hundred feet (400′) of highway or road in an emergency situation, if immediate repairs are necessary to protect human safety and welfare, and if such repairs comply with rules and regulations promulgated by the board that regulate the manner in which the repairs are made. Such officer need

not obtain a permit prior to making such repairs under such circumstances.

(2) As soon as practicable, the chief administrative officer of a county highway department shall notify the commissioner by telephone that an emergency has arisen and that such chief administrative officer intends to make repairs in response to such emergency. The giving of such notice shall not be construed to authorize the commissioner to terminate such repairs.

(3) Within ten (10) days of the completion of any highway or road repair made pursuant to this subsection (n), the chief administrative officer of the county highway department ordering such repair shall notify the commissioner, in writing, of the action taken and the nature of the emergency necessitating such immediate repair.

(o) The following activities do not require a permit under this section:

(1) The removal of downed trees by dragging or winching and without grading or reshaping of the stream channel;

(2) The placement of downed trees on stream banks for erosion protection; and

(3) The planting of vegetation on stream banks.

(p) Unless the applicant agrees otherwise, when an individual landowner applies for a permit for debris removal or stream bank stabilization activities, the commissioner shall either issue or deny the permit or take action scheduling a public hearing on the application within sixty (60) days of receipt of a complete application; provided further, however, that the staff of the division will communicate orally or in writing to the applicant within fifteen (15) days of receipt of any such application.

(q)(1) The alteration of a wet weather conveyance, as defined in § 69-3-103, by any activity is permitted by this subsection (q) and shall require no notice or approval; provided, that it is done in accordance with all of the following conditions:

(A) The activity may not result in the discharge of waste or other substances that may be harmful to humans or wildlife;

(B) Material may not be placed in a location or manner so as to impair surface water flow into or out of any wetland area;

(C)(i) Sediment shall be prevented from entering other waters of the state;

(ii) Erosion and sediment controls shall be designed according to the size and slope of disturbed or drainage areas to detain runoff and trap sediment and shall be properly selected, installed, and maintained in accordance with the manufacturer's specifications and good engineering practices;

(iii) Erosion and sediment control measures shall be in place and functional before earth moving operations begin, and shall be constructed and maintained throughout the construction period. Temporary measures may be removed at the beginning of the work day, but shall be replaced at the end of the work day;

(iv) Checkdams shall be utilized where runoff is concentrated. Clean rock, log, sandbag or straw bale checkdams shall be properly constructed to detain runoff and trap sediment. Checkdams or other erosion control devices are not to be constructed in stream. Clean rock can be of various type and size, depending on the application. Clean rock shall not contain fines, soils or other wastes or contaminants; and

(D) Appropriate steps shall be taken to ensure that petroleum products or other chemical pollutants are prevented from entering waters of the

state. All spills shall be reported to the appropriate emergency management agency and to the division. In the event of a spill, measures shall be taken immediately to prevent pollution of waters of the state, including groundwater.

(2) There shall be no additional conditions upon a person's activity within a wet weather conveyance. This subdivision (q)(2) does not apply to national pollutant discharge elimination system (NPDES) permits.

(r) A person desiring to alter a specific water of the state may request a determination from the commissioner that it is a wet weather conveyance and submit a report from a qualified hydrologic professional in support of the request. If the report contains all information that is required in rules promulgated by the board, and in accordance with department procedures and guidance, and is certified by a qualified hydrologic professional to be true, accurate and complete and, if submitted after promulgation of the rules required by § 69-3-105(*l*), contains all information that is required in those rules, then the determination made in the report shall be presumed to be correct, unless the commissioner notifies the person, in writing, within thirty (30) days of submittal of the report, that the commissioner has affirmatively determined that there is a significant question about whether the water of the state in question is a stream or a wet weather conveyance and states the reasons for that determination. In that event, the commissioner must, within thirty (30) days following the initial notification, determine whether the water of the state in question is a stream or a wet weather conveyance and notify the person in writing of that decision and the reasons for that determination. A person may appeal a determination by the commissioner that the specific water is a stream by filing a petition for appeal with the board within thirty (30) days of receiving the commissioner's decision. For purposes of this subsection (r), a qualified hydrologic professional is a person holding a bachelor's degree in biology, geology, ecology, engineering or related sciences, having at least five (5) years of relevant experience in making hydrologic determinations and who has been certified as a hydrologic professional pursuant to rules promulgated by the board.

(s) Any national pollutant discharge elimination system (NPDES) permit issued pursuant to this section to a local governmental entity administering a municipal separate storm sewer system shall not impose post-construction storm water requirements, except to the extent necessary to comply with the minimum requirements of federal law. Any such NPDES permit that includes numeric or narrative effluent limitations to manage post-construction storm water shall allow the local governmental entity administering a municipal separate storm sewer system discretion in selecting measures to meet any such effluent limitations. These numeric or narrative effluent limitations to manage post-construction stormwater shall be adopted by the board as rules pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(t) This state shall not require any local governmental entity that administers a municipal separate storm sewer system under a national pollutant discharge elimination system (NPDES) permit issued pursuant to this section to impose control measures for post-construction storm water that exceed the minimum requirements of federal law. Any local governmental entity that adopts control measures that exceed the minimum requirements of federal law must do so by ordinance or resolution, as appropriate, by the local legislative body upon a majority vote. This subsection (t) shall not apply to any ordinance

or resolution in effect on April 23, 2016, but shall not preclude a local governmental entity that administers a municipal separate storm sewer system from making changes consistent with subsection (s) and this subsection (t). When a local governmental entity seeks coverage under any future version of the NPDES permit after April 23, 2016, such ordinance or resolution shall comply with subsection (s) and this subsection (t). The local government entity shall provide in writing the control measures that exceed federal minimum requirements to the local legislative body at least thirty (30) days in advance of a vote in order to provide for a public comment period.

(u)(1) Notwithstanding any other law, a person who has contracted for the right to store water in a reservoir owned by the U.S. Army Corps of Engineers shall have exclusive rights to any return flows generated directly or indirectly to that reservoir by the person. The rights conferred by this subsection (u) shall be subject to any regulatory requirements imposed by the commissioner and to the availability to the person of unused storage capacity within the reservoir to store such return flows.

(2) As used in this subsection (u), "return flow" means water that is discharged directly or indirectly to a reservoir from a water reclamation facility.

(v)(1) Compliance with a national pollutant discharge elimination system (NPDES) permit issued under this section shall be deemed compliance for purposes of §§ 69-3-109; 69-3-114(a); 69-3-114(b) with respect to this part or any rule, regulation, or standard of water quality promulgated by the board; 69-3-115; 69-3-116; 69-3-117; and 69-3-118(a), except for any standard imposed under Section 307 of the Federal Water Pollution Control Act for a toxic pollutant injurious to human health.

(2) Compliance includes the discharge of pollutants for which no standard or limit is set forth in the permit if:

(A) The permit holder complies with applicable reporting and disclosure requirements under this part; and

(B) The discharge of pollutants is disclosed to the department in such a manner that the discharge is within the reasonable contemplation of the department at the time of issuance of the final permit.

69-3-135. Request for hearing. [Current version. See second version of section and Compiler's Notes.]

A written request for a hearing before the board of water quality, oil and gas on the stop work order must be filed by the operator with the commissioner of environment and conservation within thirty (30) days of receipt of notice. If a hearing is requested, the operator shall also be afforded the opportunity to meet with the commissioner of environment and conservation or, at the commissioner's option, the deputy or assistant commissioner, within three (3) working days after the hearing request is filed to discuss the alleged violation and show cause why a stop work order should not have been issued. Any modification or revocation of the stop work order shall be in writing. If the commissioner or such designee upholds the stop work order, it shall remain in effect until resolution of the appeal or the operator comes into compliance. If no request for hearing is made within thirty (30) days of the receipt of notice, the stop work order becomes final and not subject to review.

69-3-135. Request for hearing. [Contingent amendment. See first version of section and Compiler's Notes.]

A written request for a hearing before the board on the stop work order must be filed by the operator with the commissioner of environment and conservation within thirty (30) days of receipt of notice. If a hearing is requested, the operator shall also be afforded the opportunity to meet with the commissioner of environment and conservation or, at the commissioner's option, the deputy or assistant commissioner, within three (3) working days after the hearing request is filed to discuss the alleged violation and show cause why a stop work order should not have been issued. Any modification or revocation of the stop work order shall be in writing. If the commissioner or such designee upholds the stop work order, it shall remain in effect until resolution of the appeal or the operator comes into compliance. If no request for hearing is made within thirty (30) days of the receipt of notice, the stop work order becomes final and not subject to review.

69-3-138. Timber harvesting. [See contingent amendment to subdivision (a)(2) and the Compiler's Notes.]

(a)(1) Whenever a person contracts in writing with a master logger to conduct any type of timber harvesting on the person's property, the master logger shall assume sole liability for compliance with the provisions of this chapter for a period of one (1) year after the timber harvest is completed; provided, that the master logger gives written certification to the person that the master logger has designed a plan of best management practices (BMPs) to ensure compliance with all applicable water pollution control laws and that the master logger will install, maintain and adhere to established BMPs to ensure erosion and sediment controls to protect waters of the state in all harvesting activities on the property.

(2) **[Current version. See second version for contingent amendment and Compiler's Notes.]** The master logger shall not be responsible for the negligent or intentional acts of the landowner or any third party when such actions are the cause of a water quality violation. Actions and appeals resulting from a violation issued by the department shall be heard by the board of water quality, oil and gas established in § 69-3-104, in accordance with the procedures established by the board and in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(2) **[Contingent amendment. See the Compiler's Notes.]** The master logger shall not be responsible for the negligent or intentional acts of the landowner or any third party when such actions are the cause of a water quality violation. Actions and appeals resulting from a violation issued by the department shall be heard by the board, in accordance with the procedures established by the board and in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(b) As used in this section, "master logger" means a person who is identified by the division of forestry of the department of agriculture as having completed all requirements of the Tennessee master logger program or a master logger program of substantially equal rigor provided in another state, including, but not limited to, maintaining all current continuing education requirements.

69-3-139. Stop work orders for coal surface mining operations. [See contingent amendment to subsection (c) and the Compiler's Notes.]

(a) The commissioner is authorized to issue stop work orders for coal surface mining operations in accordance with subsections (b) and (c).

(b) When certain coal surface mining activities have polluted waters of the state as a result of an operator's failure or refusal to comply with permit conditions, the commissioner may issue a stop work order to the operator. The stop work order shall specify those parts of the coal surface mining activities on site that are contributing to the pollution that must stop. The stop work order shall remain in effect until the department determines that the operator has installed or repaired all necessary measures to comply with the permit so that further pollution associated with the surface mining activities will not occur.

(c) **[Current version. See second version for contingent amendment and Compiler's Notes.]** A written request for a hearing before the board of water quality, gas, and oil on the stop work order must be filed by the operator to the commissioner within thirty (30) days of receipt of notice. If the operator files that request and also makes a specific request for an informal meeting with the commissioner to show cause why the stop work order should not have been issued, then the commissioner or, at the commissioner's option, the deputy or assistant commissioner, shall meet with the operator within three (3) working days after the hearing request is filed. Any modification or revocation of the stop work order shall be in writing. If the commissioner or the commissioner's designee upholds the stop work order, it shall remain in effect until resolution of the appeal or until the operator comes into compliance. If no request for hearing is made within thirty (30) days of the receipt of notice, the stop work order becomes final and not subject to review.

(c) **[Contingent amendment. See the Compiler's Notes.]** A written request for a hearing before the board on the stop work order must be filed by the operator to the commissioner within thirty (30) days of receipt of notice. If the operator files that request and also makes a specific request for an informal meeting with the commissioner to show cause why the stop work order should not have been issued, then the commissioner or, at the commissioner's option, the deputy or assistant commissioner, shall meet with the operator within three (3) working days after the hearing request is filed. Any modification or revocation of the stop work order shall be in writing. If the commissioner or the commissioner's designee upholds the stop work order, it shall remain in effect until resolution of the appeal or until the operator comes into compliance. If no request for hearing is made within thirty (30) days of the receipt of notice, the stop work order becomes final and not subject to review.

(d) Failure of an operator to comply with a stop work order issued pursuant to this section shall subject the operator to the penalties in § 69-3-115.

69-3-146. Stop-work orders. [See contingent amendment to subsection (c) and the Compiler's Notes.]

(a) The commissioner is authorized to issue stop-work orders for rock harvesting operations in accordance with this section.

(b) When rock harvesting activities have polluted waters of the state as a result of an operator's knowing violation of permit conditions, or an operator

has failed or refused to obtain permit coverage as required in § 69-3-145, the commissioner may issue a stop-work order to the operator. The stop-work order shall specify those parts of the rock harvesting activities on site that are contributing to the pollution or require ceasing work until permit coverage is obtained. The stop-work order shall remain in effect until the department determines that the operator has obtained permit coverage and/or has taken all necessary measures to comply with the permit so that further pollution associated with the rock harvesting operations will not occur.

(c) **[Current version. See second version for contingent amendment and Compiler's Notes.]** A written request for a hearing before the board of water quality, oil and gas on the stop-work order shall be filed by the operator with the commissioner within thirty (30) days of the receipt of notice. If the operator files the request and also makes a specific request for an informal meeting with the commissioner to show cause why the stop-work order should not have been issued, the commissioner or the commissioner's designee shall meet with the operator within three (3) working days after the hearing request is filed. Any modification or revocation of the stop-work order shall be in writing. If the commissioner or the commissioner's designee upholds the stop-work order, it shall remain in effect until resolution of the appeal or until the operator comes into compliance. If no request for a hearing is made within thirty (30) days of the receipt of notice, the stop-work order shall be final and shall not be subject to review. In such case, the operator shall stabilize the site within sixty (60) days of the receipt of notice.

(c) **[Contingent amendment. See the Compiler's Notes.]** A written request for a hearing before the board on the stop-work order shall be filed by the operator with the commissioner within thirty (30) days of the receipt of notice. If the operator files the request and also makes a specific request for an informal meeting with the commissioner to show cause why the stop-work order should not have been issued, the commissioner or the commissioner's designee shall meet with the operator within three (3) working days after the hearing request is filed. Any modification or revocation of the stop-work order shall be in writing. If the commissioner or the commissioner's designee upholds the stop-work order, it shall remain in effect until resolution of the appeal or until the operator comes into compliance. If no request for a hearing is made within thirty (30) days of the receipt of notice, the stop-work order shall be final and shall not be subject to review. In such case, the operator shall stabilize the site within sixty (60) days of the receipt of notice.

(d) Failure of an operator to comply with a stop-work order issued pursuant to this section shall subject the operator to another violation of this part in addition to any other violations the operator has committed that is subject to the penalties prescribed in § 69-3-115. The commissioner may also institute proceedings for the confiscation and forfeiture of equipment used in any rock harvesting operation to which a stop-work order has been issued. Such proceedings may be instituted in the chancery court of Davidson County, or in the chancery court of the county in which all or part of the rock harvesting operation is located.

69-7-206. Issuance and denial of permit. [Current version. See second version of section and Compiler's Notes.]

(a) The commissioner shall issue or deny any permit applied for pursuant to § 69-7-204 in accordance with this part and the rules adopted by the board of

water quality, oil and gas under § 69-7-207 and any applicable provisions of the Water Quality Control Act, compiled in chapter 3, part 1 of this title, and rules under that act. Such permits shall be issued for a renewal term of five (5) years and contain necessary and appropriate conditions to accomplish the purposes of the same part and rules.

(b) The commissioner shall, to the maximum extent feasible, combine the permit application and issuance processes for a withdrawal activity that requires permits under this part and the Water Quality Control Act.

(c) The commissioner may revoke, suspend, or modify any permit for the following reasons:

(1) A violation of any terms or conditions of the permit or of any provision of this part;

(2) Obtaining the permit by misrepresentation or failing to disclose fully all relevant facts; or

(3) A change in any condition that requires either a temporary or permanent reduction or elimination of the permitted inter-basin transfer because of reasonably likely adverse impacts to downstream users or the environment.

(d) Any person aggrieved by the issuance or denial of a permit by the commissioner under this part may appeal such matter to the board of water quality, oil and gas solely in accordance with § 69-7-207(3).

69-7-206. Issuance and denial of permit. [Contingent amendment. See first version of section and Compiler's Notes.]

(a) The commissioner shall issue or deny any permit applied for pursuant to § 69-7-204 in accordance with this part and the rules adopted by the board of energy and natural resources under § 69-7-207 and any applicable provisions of the Water Quality Control Act, compiled in chapter 3, part 1 of this title, and rules under that act. Such permits shall be issued for a renewal term of five (5) years and contain necessary and appropriate conditions to accomplish the purposes of the same part and rules.

(b) The commissioner shall, to the maximum extent feasible, combine the permit application and issuance processes for a withdrawal activity that requires permits under this part and the Water Quality Control Act.

(c) The commissioner may revoke, suspend, or modify any permit for the following reasons:

(1) A violation of any terms or conditions of the permit or of any provision of this part;

(2) Obtaining the permit by misrepresentation or failing to disclose fully all relevant facts; or

(3) A change in any condition that requires either a temporary or permanent reduction or elimination of the permitted inter-basin transfer because of reasonably likely adverse impacts to downstream users or the environment.

(d) Any person aggrieved by the issuance or denial of a permit by the commissioner under this part may appeal such matter to the board of energy and natural resources solely in accordance with § 69-7-207(3).

69-7-207. Duties and powers of board of water quality, oil and gas. [Current version. See second version of section and Compiler's Notes.]

In addition to powers under all other statutes, including, but not limited to, the Water Quality Control Act, compiled in chapter 3, part 1 of this title, and the Safe Drinking Water Act, compiled in title 68, chapter 221, part 7, the board of water quality, oil and gas, created by § 69-3-104, has the following powers and duties under this part:

(1) To promulgate rules to be effective by October 1, 2000, to effectuate the purposes of this part including, but not limited to:

(A) Defining necessary terms;

(B) Setting criteria for permit issuance and denial as well as for permit conditions, taking into account all appropriate factors including, but not limited to, existing uses downstream of a proposed withdrawal, low flow conditions, classified uses of the stream under the Water Quality Control Act, climatic conditions, alternatives to the proposed withdrawal, the number of downstream river miles from which water will be diverted as a result of the transfer, quantity of a proposed withdrawal, and quantity and location of water returned;

(C) Establishing procedures for permit issuance, including application fees for permits under this part, categories of withdrawals for which general permits would be appropriate, requirements for public notice, including notice to potentially affected communities and water users and notice to the public of receipt of a permit application within thirty (30) days of receipt, and opportunity for public comment and public hearings;

(2) To hear appeals from assessments of civil penalty assessments; and

(3) To hold a contested case hearing concerning the commissioner's issuance or denial of a permit, upon receiving a petition for permit appeal. During this hearing, the board shall review the commissioner's permit decision and may reverse or modify the decision upon finding that it does not comply with any provisions of this part. A petition for permit appeal may be filed pursuant to this subdivision (3) by the permit applicant, or by any aggrieved person who participated in the public comment period or gave testimony at a formal public hearing, whose appeal is based upon any of the issues that were provided to the commissioner in writing during the public comment period or in testimony at a formal public hearing on the permit application. Any petition for permit appeal under this subdivision (3) shall be filed with the board within thirty (30) days after public notice of the commissioner's decision to issue or deny the permit. Notwithstanding §§ 4-5-223 or 69-3-118(a), or any other law to the contrary, this subdivision (3) shall be the exclusive means for obtaining administrative review of the commissioner's issuance or denial of a permit.

69-7-207. Duties and powers of board of water quality, oil and gas. [Contingent amendment. See first version of section and Compiler's Notes.]

In addition to powers under all other statutes, including, but not limited to, the Water Quality Control Act, compiled in chapter 3, part 1 of this title, and the Safe Drinking Water Act, compiled in title 68, chapter 221, part 7, the board of energy and natural resources, created by § 69-3-104, has the

following powers and duties under this part:

(1) To promulgate rules to be effective by October 1, 2000, to effectuate the purposes of this part including, but not limited to:

(A) Defining necessary terms;

(B) Setting criteria for permit issuance and denial as well as for permit conditions, taking into account all appropriate factors including, but not limited to, existing uses downstream of a proposed withdrawal, low flow conditions, classified uses of the stream under the Water Quality Control Act, climatic conditions, alternatives to the proposed withdrawal, the number of downstream river miles from which water will be diverted as a result of the transfer, quantity of a proposed withdrawal, and quantity and location of water returned;

(C) Establishing procedures for permit issuance, including application fees for permits under this part, categories of withdrawals for which general permits would be appropriate, requirements for public notice, including notice to potentially affected communities and water users and notice to the public of receipt of a permit application within thirty (30) days of receipt, and opportunity for public comment and public hearings;

(2) To hear appeals from assessments of civil penalty assessments; and

(3) To hold a contested case hearing concerning the commissioner's issuance or denial of a permit, upon receiving a petition for permit appeal. During this hearing, the board shall review the commissioner's permit decision and may reverse or modify the decision upon finding that it does not comply with any provisions of this part. A petition for permit appeal may be filed pursuant to this subdivision (3) by the permit applicant, or by any aggrieved person who participated in the public comment period or gave testimony at a formal public hearing, whose appeal is based upon any of the issues that were provided to the commissioner in writing during the public comment period or in testimony at a formal public hearing on the permit application. Any petition for permit appeal under this subdivision (3) shall be filed with the board within thirty (30) days after public notice of the commissioner's decision to issue or deny the permit. Notwithstanding §§ 4-5-223 or 69-3-118(a), or any other law to the contrary, this subdivision (3) shall be the exclusive means for obtaining administrative review of the commissioner's issuance or denial of a permit.

69-7-210. Designation of protected areas. [Current version. See second version of section and Compiler's Notes.]

The board of water quality, oil and gas may, from time to time after giving due notice and conducting a public hearing, determine and delineate such basins or portions of basins where the demands upon supply made by water users have developed or threaten to develop to such a degree as to create a water shortage and any such areas may be designated as "protected areas." The water quality control board, whenever it determines that such shortage no longer exists, shall terminate the protected status of such area and shall give public notice of such termination.

69-7-210. Designation of protected areas. [Contingent amendment. See first version of section and Compiler's Notes.]

The board of energy and natural resources may, from time to time after giving due notice and conducting a public hearing, determine and delineate

such basins or portions of basins where the demands upon supply made by water users have developed or threaten to develop to such a degree as to create a water shortage and any such areas may be designated as "protected areas." The board of energy and natural resources, whenever it determines that such shortage no longer exists, shall terminate the protected status of such area and shall give public notice of such termination.

69-7-303. Part definitions. [Current version. See second version of section and Compiler's Notes.]

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

(1) "Board" means the board of water quality, oil and gas established pursuant to § 69-3-104;

(2) "Commissioner" means the commissioner of environment and conservation, the commissioner's duly authorized representative and, in the event of the commissioner's absence or a vacancy in the office of commissioner, the deputy commissioner of environment and conservation;

(3) "Person" means any individual, corporation, company, limited liability company, partnership, association, group, utility district, federal, state or local government agency, or any combination of them;

(4) "Source" means a location where surface or ground water is available, including, but not limited to, a water well, cave, spring, stream, river, lake, or impoundment; and

(5) "Withdraw" means to take water from any source on a regular or recurring basis by means of an intake structure, pipe and pump that diverts water away from a source, or by any other conveyance with or without the use of suction. This does not include nonrecurring withdrawals, including, but not limited to, the filling of a swimming pool from a residential water well or accidental withdrawals caused by failure of pipes or equipment.

69-7-303. Part definitions. [Contingent amendment. See first version of section and Compiler's Notes.]

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

(1) "Board" means the Tennessee board of energy and natural resources, created by § 69-3-104;

(2) "Commissioner" means the commissioner of environment and conservation, the commissioner's duly authorized representative and, in the event of the commissioner's absence or a vacancy in the office of commissioner, the deputy commissioner of environment and conservation;

(3) "Person" means any individual, corporation, company, limited liability company, partnership, association, group, utility district, federal, state or local government agency, or any combination of them;

(4) "Source" means a location where surface or ground water is available, including, but not limited to, a water well, cave, spring, stream, river, lake, or impoundment; and

(5) "Withdraw" means to take water from any source on a regular or recurring basis by means of an intake structure, pipe and pump that diverts water away from a source, or by any other conveyance with or without the use of suction. This does not include nonrecurring withdrawals, including, but not limited to, the filling of a swimming pool from a residential water well or accidental withdrawals caused by failure of pipes or equipment.

69-9-218. Jet boats that carry passengers for hire.

(a) Jet boats that carry passengers for hire shall:

(1) Only operate during the hours between ten o'clock a.m. (10:00 a.m.) and five o'clock p.m. (5:00 p.m.) on Monday through Friday;

(2) Only operate during the hours between ten o'clock a.m. (10:00 a.m.) and seven o'clock p.m. (7:00 p.m.) on Saturday and Sunday;

(3) Not travel at a speed greater than a no-wake speed within fifty feet (50') of any private or public dock or boat ramp;

(4) Not travel at any time at a speed greater than thirty-three nautical miles per hour (33 NMPH);

(5) Be subject to the noise level restrictions under part 3 of this chapter; and

(6) Not perform the maneuver commonly called a "donut" within one-hundred feet (100') of any private vessel or the shoreline.

(b) Beginning July 1, 2018, no person shall locate any outfitter or other business that carries passengers for hire on jet boats within five thousand feet (5,000′) of another outfitter or other business that carries passengers for hire on jet boats.

(c) A person violating this section commits a Class C misdemeanor and, upon conviction of an offense, shall be fined fifty dollars ($50.00) for each offense.

(d) This section shall only apply in a tourist resort county, as defined in § 42-1-301.

69-9-219. Penalties.

(a) Any person who violates any of the provisions of this chapter, except § 69-9-216(a) or § 69-9-217, including any rules and regulations adopted by the commission, commits a Class C misdemeanor.

(b) Any person who violates § 69-9-216(a) commits a Class A misdemeanor.

(c)(1)(A) Any person violating § 69-9-217(a) commits a Class A misdemeanor and, upon conviction for the first offense, shall be fined not less than two hundred fifty dollars ($250) nor more than two thousand five hundred dollars ($2,500), and in the discretion of the court, shall be confined in the county jail or workhouse for a period not to exceed eleven (11) months and twenty-nine (29) days. In the discretion of the court, in addition to a fine or a jail sentence, or both, the person's privilege to operate any vessel subject to registration on the public waters of the state shall be suspended for a period not to exceed one (1) year.

(B) For conviction of the second offense, there shall be imposed a fine of not less than five hundred dollars ($500) nor more than two thousand five hundred dollars ($2,500), and in the discretion of the court, the person shall be confined in the county jail or workhouse for a period not to exceed eleven (11) months and twenty-nine (29) days, and the court shall prohibit such convicted person from operating any vessel subject to registration on the public waters of the state for a period of two (2) years.

(C) For the third or subsequent conviction, there shall be imposed a fine of not less than one thousand dollars ($1,000) nor more than five thousand dollars ($5,000) and the person shall be confined in the county jail or workhouse for not less than thirty (30) days nor more than eleven (11) months and twenty-nine (29) days, and the court shall prohibit such

convicted person or persons from operating any vessel subject to registration on the public waters of the state for a period of not less than three (3) years nor more than ten (10) years.

(2) The court, in its discretion, may require a person convicted of a violation of § 69-9-217(a) to remove litter from public areas, playgrounds, picnic ramps and areas giving the public access to the public waters of the state or to work in a recycling center or other appropriate location for any prescribed period of time in addition to any of the penalties otherwise provided in this section. Any person sentenced to remove litter under the circumstances set out in this subdivision (c)(2) shall be allowed to do so at a time other than that person's regular hours of employment.

(3) For purposes of this section, a person whose convictions for violating § 69-9-217(a) occur more than ten (10) years apart is not considered a multiple offender and the penalties imposed upon multiple offenders by subdivisions (c)(1) and (2) do not apply to such person.

(4) No person charged with a violation of § 69-9-217(a) 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 § 69-9-217(a) be eligible for suspension of sentence or probation pursuant to title 40, chapter 35, part 3, or any other law authorizing suspension of sentence or probation, until such time as the person has fully served day for day at least the minimum sentence provided by law.

(5) All persons sentenced under subdivision (c)(1) or (c)(2) shall be required to serve the difference between the time actually served and the maximum sentence on probation. The judge, in the judge's discretion, may impose any conditions of probation that are reasonably related to the offense but shall impose the following conditions:

(A) Participation in an alcohol safety boating under the influence (BUI) school program, if available;

(B) Upon the second or subsequent conviction for violating § 69-9-217(a), participation in a program of rehabilitation at an alcohol treatment facility, if available; and

(C) The payment of restitution to any person suffering physical injury or personal losses as the result of such offense, if such person is economically capable of making such restitution.

(6)(A) Any person convicted under § 69-9-217(a) of an initial or subsequent offense shall be advised in writing of the penalty for second and subsequent convictions, and, in addition, when pronouncing sentence, the judge shall advise the defendant of the penalties for additional offenses.

(B) In the prosecution of second or subsequent offenders, the indictment or charging instrument must allege the prior convictions for violating any of the provisions of § 69-9-217(a), setting forth the time and place of each prior conviction or convictions.

(7) In addition to all other fines, fees, costs and punishments now prescribed by law, in any county having a county operated blood alcohol concentration testing facility, a blood alcohol concentration (BAC) test fee in the amount of seventeen dollars and fifty cents ($17.50) will be assessed upon conviction of an offense of operating a vessel subject to registration for each offender who has taken a breath-alcohol test on an evidential breath testing unit provided, maintained and administered by a law enforcement

agency in the counties or where breath, blood or urine has been analyzed by a publicly funded forensic laboratory. This fee shall be collected by the clerks of various courts of the counties and forwarded to the county trustee on a monthly basis, and designated for exclusive use by the law enforcement testing unit of the counties if the BAC test was conducted on an evidential breath testing unit. If the blood alcohol test was conducted by a publicly funded forensic laboratory, the fee shall be collected by the clerks of the various courts of the counties and forwarded to the county trustee on a monthly basis and designated for exclusive use by the publicly funded forensic laboratory.

(8) No person arrested under this subsection (c) shall be subject to strip searches or body cavity searches, or both, unless the arresting officer has probable cause to believe the arrested person may be concealing a weapon or contraband, or both, in such person's body cavity. "Contraband" includes, but is not limited to, illegal drugs.

(9) In addition to all other fines, fees, costs, and punishments now prescribed by law, an ignition interlock fee of forty dollars ($40.00) shall be assessed for each violation of § 69-9-217, occurring on or after July 1, 2018, and resulting in a conviction for such offense. All proceeds collected pursuant to this subdivision (c)(9) shall be transmitted to the treasurer for deposit in the electronic monitoring indigency fund pursuant to § 55-10-419(g).

(d) Any person violating § 69-9-217(m) commits a Class B misdemeanor and, upon conviction of the violation, shall be fined not less than five hundred dollars ($500) nor more than one thousand dollars ($1,000) or shall be confined in the county jail or workhouse for no more than thirty (30) days, or both.

69-9-226. Operation of vessel by persons born after January 1, 1989 — Exceptions — Boating safety course certificates — Violations.

(a) Except as provided in subsection (b), it is unlawful for any person born after January 1, 1989, to operate any vessel subject to registration on any waters of this state unless the operator:

(1) Has successfully completed a monitored National Association of State Boating Law Administrators (NASBLA) approved boating safety examination administered by the agency or an approved representative of the agency; and

(2) Has received a certificate from the Tennessee wildlife resources agency as evidence of successful completion of a monitored NASBLA-approved boating safety examination administered by the agency or an approved representative of the agency; or

(3) Is accompanied on the vessel by, and is under the direct supervision of a person who:

(A) Is eighteen (18) years of age or older and is certified as provided in subdivisions (a)(1) and (2); or

(B) Was born on or before January 1, 1989.

(b) Subsection (a) shall not apply to:

(1) Nonresidents of Tennessee. Nonresidents of Tennessee shall show proof of successful completion of an approved NASBLA course;

(2) [Deleted by 2018 amendment.]

(3) Vessels powered by engines of eight and one-half (8.5) horsepower or

less;

(4) Persons with operator licenses issued by the United States coast guard; or

(5) Operators of sailboats when under sail alone.

(c) Certificates of completion of boating safety courses required by this section:

(1) Must be in the possession of the boat operator while such boat is in operation;

(2) Shall contain a physical description of the boat operator, including, but not limited to, the operator's address, date of birth, and a unique tracking number;

(3) Shall not expire, but may be revoked by action of an applicable court; and

(4) Shall be issued for a fee of ten dollars ($10.00). Replacement cards shall be issued for a fee of five dollars ($5.00).

(d) A violation of this section is a Class C misdemeanor punished by a fine only and, in addition to the fine, a court may revoke a certificate of completion of a boat safety course. It is unlawful for an owner or person directly in charge of a vessel subject to registration to authorize or permit knowingly such vessel to be operated on the waters of this state in violation of this section.

69-9-227. Regulation of commercial operations that lease or rent non-motorized vessels for non-commercial use.

(a) As used in this section:

(1) "Non-motorized vessels" means canoes, kayaks, stand-up paddle boards, tubes, and any other vessels powered only by their occupants and propelled by manual methods, including, but not limited to paddles and oars; and

(2) "Waters of Tennessee" means any waters within the territorial limits of this state, except privately owned ponds or lakes not used for commercial purposes.

(b)(1) The commission is hereby authorized to establish rules, regulations, permits, and procedures regulating all aspects of commercial operations that lease or rent non-motorized vessels for non-commercial use by the public on the waters of Tennessee.

(2) The regulatory authority granted under subdivision (b)(1) shall not apply to commercial outfitters operating pursuant to and in possession of a permit issued by the United States forest service on waters in and adjacent to the Cherokee National Forest.

69-9-228. Yielding right-of-way to emergency vessel making use of flashing lights.

(a) Upon the approach of an authorized emergency vessel making use of flashing lights, the operator of every other vessel shall yield the right-of-way and shall slow to a no wake speed or immediately move over at least one hundred feet (100') to a position of safety from the emergency vessels, clear of any other vessel, until the authorized emergency vessel has passed, except when otherwise directed by operators of emergency vessels.

(b) Upon approaching a stationary authorized emergency vessel, when the vessel is giving a signal by use of flashing lights, a person operating an

approaching vessel shall, while proceeding with due caution, yield the right-of-way by slowing to a no wake speed or moving over at least one hundred feet (100') to a position of safety from the emergency vessels, clear of any other motorized vessel, if possible, with due regard to safety and boat traffic conditions.

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

(2) Notwithstanding § 8-21-401, the court costs imposed or assessed against any person convicted of a violation of this section may not exceed the maximum fine amount that may be imposed for a violation of this section.

(3) Nothing in this subsection (c) shall be construed as precluding a person who violates this section from being prosecuted and convicted under any other applicable offense.

(d) This section shall not operate to relieve the operator of an authorized emergency vessel, from the duty to operate the vessel with due regard for the safety of all persons located in the vicinity of such vessels on the waters of Tennessee.

70-4-118. Unlawful to hunt deer being chased by dogs or to permit dogs to hunt or chase deer — Confiscation of dogs — Penalties.

(a) No person shall knowingly hunt deer being chased by dogs nor shall any person knowingly and intentionally permit such person's dogs to hunt or chase deer.

(b) Any officer of the wildlife resources agency may take into possession any dog known to have hunted or chased deer and shall notify the owner of the dog, or if the owner is unknown, shall advertise in a newspaper of general circulation in the county that the dog is in the officer's possession, giving the description of the dog and stating the circumstances under which it was taken. The officer shall hold the dog for a period of ten (10) days and shall report the facts in full to the director.

(c) If, within ten (10) days, the owner claims the dog, the owner may repossess it on payment of the costs of advertising and the cost of keep. If the owner does not claim the dog within the above specified time, the dog shall be deemed ownerless and a public nuisance and shall be disposed of in the manner prescribed by the executive director. In this event, the costs of advertising and keep shall be paid by the agency.

(d) Any person violating this section commits a Class B misdemeanor. It is mandatory upon the court to impose the prison sentence, and the minimum time is not subject to suspension, but may be served on such days designated by the judge.

(e) Notwithstanding subsection (a), the commission is authorized to promulgate rules to allow for the use of dogs in tracking and recovering an injured or deceased deer.

70-4-208. Unlawful importation of skunks — Penalty.

(a) It is unlawful for any person to import, possess, or cause to be imported into this state any type of live skunk, or to sell, barter, exchange or otherwise transfer any live skunk, except that the prohibitions of this section shall not apply to bona fide zoological parks and research institutions.

(b) Notwithstanding subsection (a), a person who possesses a valid wildlife rehabilitation permit issued by the agency may receive skunks from the wild

for the purposes of rehabilitation and release only.

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

71-1-105. Powers and duties. [Effective on December 1, 2018. See the version effective until December 1, 2018.]

(a) The department is charged with the administration or supervision of all of the public welfare activities of the state as provided in this section. The department shall:

(1) Administer or supervise all functions of the federal Social Security Act, compiled in 42 U.S.C., established or to be established in Tennessee that may be assigned to it by law, regulation or executive order;

(2) Cooperate with the federal government or its agencies or instrumentalities, in establishing, extending, strengthening or reforming services to assist persons and families in need of such services from the state of Tennessee;

(3) Promote the unified development of the institutional and noninstitutional agencies subject to its jurisdiction, including the determination of all matters of general policy and the control of the administration of each of the institutional or noninstitutional agencies in the department, so that each institutional or noninstitutional agency shall perform its function as an integral part of the general system;

(4) Establish and enforce reasonable rules and regulations governing the custody, use and preservation of the records, papers, files and communications of the department. The use of such records, papers, files and communications by any other agency or department of the government to which they may be furnished shall be limited to the purpose for which they are furnished and by the provisions of the law by which they may be furnished;

(5)(A) License or approve, and supervise, adult day care centers and child care agencies as defined in chapter 2, part 4, and chapter 3, part 5 of this title, and to promulgate any regulations it deems necessary to carry out the licensing laws;

(B) Establish criteria for the approval of persons or entities who receive any state or federal funds for the provision of care for adults or children whether those persons or entities are licensed or approved as provided in chapter 2, part 4 or chapter 3, part 5, of this title, or whether they are otherwise unlicensed, and, if determined by the department to be necessary, provide for such criteria in regulations promulgated pursuant to the Uniform Administrative Procedures Act, compiled at title 4, chapter 5, part 2; and

(C) Utilize any state, federal, local or private funding to provide for any child care or adult day care services or training that it deems necessary to promote the welfare of children and adults or that is required or permitted by state or federal law or regulations, and to provide such services or training directly or by contract with any public or private entities;

(6) Promote and employ the use of such measures as are designed to restore persons receiving assistance or services from the department to a condition of self-support in the community and pursue the preventive aspects of its work, including providing, to the extent possible, foster care for adults who are unable to maintain an independent living arrangement, and such other services to those liable to become destitute or handicapped as will prevent

their becoming or remaining public charges;

(7) Study the causes of economic dependency or rehabilitative service requirements for persons in need of economic support or rehabilitative services in Tennessee and promote efficient methods for assisting persons in need of such support or services;

(8) Cooperate with the commissioner of social security, and with any other agency or instrumentality of the federal government in any reasonable manner that may be necessary to qualify for federal aid for assistance to persons who are entitled to assistance under the provisions of the Social Security Act, except as otherwise provided by subdivision (a)(1), and in conformity with the provisions of this part, including the making of such reports, in such form and containing such information as the commissioner of social security or any other agency or instrumentality of the federal government may, from time to time, require and comply with such requirements as such commissioner, agency, or instrumentality may, from time to time, find necessary to assure the correctness and verification of such reports;

(9) Receive and expend as provided by law any public and private donations, not provided for by § 71-1-113, and the department may expend a reasonable proportion of any such donation for administrative purposes;

(10) Assist and cooperate with other departments, agencies, instrumentalities, and institutions of the state and federal governments, when so requested, in performing services in conformity with the purposes of this part;

(11) Act in cooperation with the federal government in welfare matters of mutual concern in conformity with the provisions of this part and in the administration of any federal funds granted to this state or any state appropriations to aid in the furtherance of any such functions of the state government, including relief and assistance of needy citizens;

(12) Make such rules and regulations and take such action as may be deemed necessary or desirable to carry out this part and that are not inconsistent with this part;

(13) Administer such additional public welfare functions as are hereby or may be vested in it by law pursuant to this part;

(14) Be authorized to license blind persons to operate vending stands in state and county buildings; provided that, in the opinion of the director of vocational rehabilitation and the custodian of such building or buildings, a suitable place may be found for the location of such stand or stands to be operated in accordance with the Randolph-Sheppard Vending Stand Act of June 20, 1936, chapter 638, 49 Stat. 1559, compiled in 20 U.S.C. § 107 et seq., or amendments to that act;

(15) Enforce the provisions of Title IV-D of the Social Security Act, compiled in 42 U.S.C. § 651 et seq., relative to child and spousal support and establishment of paternity and to contract with public or private entities to provide any services necessary to carry out such provisions;

(16) Conduct investigations, which shall include, but not be limited to, investigation into the existence of:

(A) Trafficking in, or fraud involving, the food assistance program administered by the department pursuant to chapter 5, part 3 of this title;

(B) Fraud, abuse, theft, misappropriation, or misuse of property, funds, or services by any person or entity in any program administered by the department; and

(C) Misconduct by any employee, contractor, or agent of the department concerning or related to the operation of any department program or any

laws, regulations or policies governing the department's operations; and

(17) When conducting any investigation pursuant to subdivision (a)(16)(A) or (a)(16)(B):

(A) Have the power to issue subpoenas to compel the attendance of witnesses, the examination of witnesses under oath, and the production of books, accounts, papers, records, and documents relating to an investigation; provided, that:

(i) The materials to be produced are relevant to the investigation;

(ii) The materials to be produced are specified with reasonable particularity; and

(iii) The subpoenas command production of the materials covering only a reasonable period of time;

(B) Have the power to compel the production of employment records during an investigation. For purposes of this subdivision (a)(17)(B), "employment records" includes records of future, past, or present employees who are applying for or have received a form of public assistance or are members of the household of a person who is applying for or has received a form of public assistance from this state or another state;

(C) Have the authority to refer any matter to the appropriate enforcement authority for criminal prosecution;

(D) Have the authority to refer any matter to the appropriate enforcement authorities for civil proceedings, including, but not limited to, referral to the attorney general and reporter for civil recovery;

(E) Have the authority to cooperate with other state agencies to investigate fraud and abuse in programs administered by the department;

(F) Have the authority to furnish information to educate the public about the fraud and abuse laws pertaining to programs administered by the department; and

(G) Have the authority to contract with entities as necessary to carry out the required duties of subdivisions (a)(17)(C)-(F).

(b) Notwithstanding any state law or regulation to the contrary, the department may provide low-income energy assistance at any percentage of the federal income poverty level that is permitted by federal law.

71-1-116. Judicial enforcement of subpoena — Notice. [Effective on December 1, 2018.]

(a)(1) If a person, firm, or corporation subpoenaed pursuant to authority granted pursuant to § 71-1-105(a)(17)(A) fails to comply with the subpoena, after reasonable notice to the person, firm, or corporation, the department may seek judicial enforcement of the subpoena by filing, through the attorney general and reporter, a petition with the circuit or chancery court of Davidson County or of the judicial district in which such person, firm, or corporation resides.

(2) A petition filed pursuant to subdivision (a)(1) must incorporate or be accompanied by a certification regarding the notice given and the failure of such person, firm, or corporation to attend or produce the items requested.

(3) Upon the filing of a petition pursuant to subdivision (a)(1) in the proper form, the court shall order the person, firm, or corporation named in the petition to appear and show cause why the person, firm, or corporation should not be required to comply with the subpoena or be held in contempt for failure

to comply. The court may employ all judicial power provided by law to compel compliance with a subpoena requested pursuant to subdivision (a)(1), including the powers granted in §§ 29-9-103 — 29-9-106. The court is authorized to impose costs and sanctions against any person, firm, or corporation against whom a petition is filed pursuant to subdivision (a)(1) in the same manner and on the same bases as may be imposed for failure to comply with judicially issued subpoenas under the Tennessee Rules of Civil Procedure. The court may order the person, firm, or corporation to comply with the subpoena and may punish each day of noncompliance with the order as a separate contempt of court.

(4) The subpoena enforcement remedies set forth in subdivision (a)(3) are cumulative and not exclusive of any other remedies provided by law.

(b) Employment records, as defined in § 71-1-105(a)(17)(B), shall be open to inspection and copying by a department representative at any reasonable time and as often as may be necessary.

(c) The department shall also have the right to compare information reported to the department by applicants or recipients with data maintained by the credit bureaus.

71-2-115. Inventory of funding sources — Report — Updates.

(a) The commission shall design and oversee a resource mapping of all federal and state funding sources and funding streams as well as resources for nonprofit and other nongovernmental entities that support the health, safety, and welfare of older adults in this state who are sixty (60) years of age or older. The resource mapping shall include, but not be limited to:

(1) An inventory of all federal and state funding sources that support these older adults in this state;

(2) An inventory of all state, federal, or government subsidized services and programs offered to these older adults in this state, set out by program, target population, geographical region, agency, or any other grouping that would assist the general assembly in determining whether there are overlapping programs that lead to duplication within the state, gaps in service delivery, and any administrative inefficiencies generally;

(3) A description of the manner in which the funds are being used within the agencies or organizations, the performance measures in place to assess the use of such funding, and the intended outcomes of the programs and services;

(4) Government mandates for the use of the funds, if any; and

(5) An inventory of the funds for which the state may be eligible, but is currently not receiving or using, and the reasons why the funds are not being used.

(b) The commission shall update the report each year and shall subsequently assure that the resource map is periodically and timely updated, so as to maintain a current resource map of the funds used to support these older adults in the state.

(c) The comptroller of the treasury and each department of state government or agency in this state shall provide assistance upon request to the commission in effectuating the purpose of this section.

(d) On or before January 15, 2019, the commission shall provide a preliminary report to the health and welfare committee of the senate and the health

committee of the house of representatives. On or before December 15, 2020, and each successive year thereafter, the commission shall provide a full report to the health and welfare committee of the senate and the health committee of the house of representatives. The full report shall include, but not be limited to, the resource map and any recommendations, including proposed legislation, for improving the efficiency and effectiveness of programs offered to older adults who are sixty (60) years of age or older in this state.

71-2-116. State palliative care and quality of life advisory council.

(a) As used in this section:

(1) "Commission" means the Tennessee commission on aging and disability;

(2) "Council" means the state palliative care and quality of life council;

(3) "Executive director" shall mean the executive director of the Tennessee commission on aging and disability; and

(4) "Palliative care" means an approach that improves the quality of life of patients and their families facing the problems associated with chronic life-threatening illness, through the prevention and relief of suffering by means of early identification and assessment and treatment of pain and other problems, physical, psychosocial, and spiritual. Palliative care includes, but is not limited to:

(A) Discussions involving a patient's goals for treatment;

(B) Discussions involving treatment options that are appropriate to the patient, including, where appropriate, hospice care; and

(C) Comprehensive pain and symptom management.

(b) The state palliative care and quality of life advisory council is established.

(c) The purpose of the council is to continually assess the current status of palliative care in the state and to review the barriers that exist that prevent such care from being obtained and utilized by the people who could benefit from such care. The council shall provide recommendations to the governor and to the general assembly on issues related to its work.

(d) The council membership shall be appointed by the executive director, after consulting with Tennessee Hospice Association, Tennessee Hospital Association, Tennessee Medical Association, Tennessee Nursing Association, Tennessee Health Care Association, Tennessee Association of Home Care, and the Tennessee Chapter of American Cancer Society, and shall include interdisciplinary palliative care medical, nursing, social work, pharmacy, and spiritual professional expertise; patient and family caregiver advocate representation; and any other relevant appointees the executive director determines appropriate. The advisory council shall consist of no more than eleven (11) members. The executive director shall consider the racial, geographic, urban/rural, and economic diversity of the state when appointing members. Membership shall specifically include health professionals having palliative care work experience or expertise in palliative care delivery models in a variety of inpatient, outpatient, and community settings such as acute care, long-term care, and hospice, and with a variety of populations, including pediatric, youth, and adult. At least one (1) council member shall be a board-certified hospice and palliative medicine physician, at least one (1) council member shall be a licensed certified registered nurse practitioner with expertise in palliative

care, and one (1) council member shall be from the department of health. Council members shall be appointed for a term of three (3) years. The members shall elect a chair and vice chair, whose duties shall be established by the council. The council shall fix a time and place for regular meetings and shall meet no less than twice yearly.

(e) Council members shall receive no compensation for their services or travel reimbursement for attending meetings.

(f) The council shall consult with and advise the executive director on matters related to the establishment, maintenance, and operation of palliative care initiatives in this state.

(g) The commission shall provide administrative support to the council.

(h) By January 15 of 2020, and by January 15 of each subsequent year, the advisory council shall submit a report to the general assembly that addresses barriers to palliative care access, analyzes service utilization data, and provides recommendations and best practices to address gaps in service.

71-2-402. Licensing requirements — Exemption for limited respite care services program.

(a) No person or any entity of any kind, public or private, shall provide adult day care in this state without first obtaining a license as provided in this part.

(b) If any person or entity appears to be subject to the licensing requirements of this part and is currently licensed by any other agency of state government, the commissioner shall consult with the head of such other state agency, and, if after such consultation, the commissioner determines that the services to adults that are provided by the person or entity are adequately regulated by the licensing requirements of that other state agency, then the commissioner may determine that no licensing of such person or entity by the department pursuant to this part shall be necessary.

(c)(1) A limited respite care services program is exempt from licensure under this part.

(2) For purposes of this subsection (c), "limited respite care services program" means a program that has as its sole purpose to provide primary caregivers of appropriate adults with relief from normal caregiving duties and responsibilities and:

(A) Is operated by a religious institution or religious organization that provides custodial care for aging adults and adults with limitations on activities of daily living:

(i) Who can function in a group setting;

(ii) Who can feed and perform toilet functions without the assistance of a personal aide accompanying them; and

(iii) Who attend no more than three (3) days each calendar week, no more than twelve (12) hours in any one (1) week, and no more than six (6) hours in any one (1) day;

(B) Is registered with the department pursuant to rule promulgated by the commissioner under § 71-2-412;

(C) Maintains records that include, at a minimum, dates and times of each adult's attendance;

(D) Provides care services for less than fifteen (15) adults at the same time; and

(E) Does not administer medications to adults while under the pro-

gram's care.

(3) For purposes of this subsection (c), "religious institution" or "religious organization" means an entity exempt from registration as a bona fide religious institution under § 48-101-502.

(4) The department is authorized to make site visits to a program in order to ensure compliance with the terms of the exemption permitted under this subsection (c).

71-3-104. Eligibility for temporary assistance. [Effective on December 1, 2018. See the version effective until December 1, 2018.]

(a) A family shall be eligible for temporary assistance pursuant to this part if:

(1) A dependent child resides in this state with a caretaker relative in that family, or an individual who applies for temporary assistance is pregnant, or as otherwise defined by the department;

(2) The family meets income standards based upon the standard of need for a family based upon its size and income and based upon resource limits as determined by the department in its rules;

(3) The family members are engaged in work activities as set forth in subsection (g), except as exempted by this part or by rule of the department;

(4) The caretaker relative has agreed to and complies with a personal responsibility plan as developed by the department in accordance with subsection (h); and

(5) The family or individual of the family is otherwise eligible pursuant to federal or state laws or regulations.

(b)(1) A caretaker relative who becomes ineligible for any reason other than a failure to comply with work requirements or to cooperate with child support obligations shall be eligible for transitional childcare assistance for a period specified by the department while the caretaker relative is employed, in school, or in employment training. Childcare assistance terminated due to failure to comply with work requirements shall be reinstated upon verification by the department that the work requirements were, in fact, being met immediately preceding such ineligibility. Childcare assistance shall be paid, on a sliding fee scale based upon the family's income for so long as federal funding or any related waiver is in effect.

(2) Food stamp assistance shall continue to be available to these families as prescribed by federal or state law or regulations.

(3)(A) A family that becomes financially ineligible for temporary assistance due to an increase in a caretaker relative's earned income, but continues to meet all other eligibility criteria, including compliance with the program's work requirements, shall be eligible for transitional temporary assistance for no more than six (6) months.

(B) The amount of the transitional temporary assistance shall be based upon the family's income and household size.

(C) Receipt of transitional temporary assistance shall count toward the recipient's maximum time limit under subsection (d).

(D) The department is authorized to promulgate rules to effectuate this subdivision (b)(3) in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(c) Persons who are recipients of temporary assistance and who marry while receiving such assistance may disregard the new spouse in determining

eligibility for three (3) months after the date of marriage.

(d)(1) Except as provided in this part or as otherwise required by federal law, no family shall receive assistance if that family includes an adult who has received temporary assistance from this program or the program of any other state or territory for a total of sixty (60) months, whether or not consecutive, unless an exemption is granted pursuant to this part.

(2) As to a child who was not the head of a household or who was not married to the head of a household, the sixty (60) month time limit stated in subdivision (d)(1) shall not begin to run during the time that the child was a member of a family receiving assistance under this part.

(3) A family shall be eligible for temporary assistance beyond the sixty-month time limit stated in subdivision (d)(1) if:

(A) The family does not contain an adult;

(B) The caretaker relative is sixty-five (65) years of age or older;

(C) The caretaker relative is caring for a disabled or incapacitated child relative or disabled adult relative, based upon criteria set forth in the department's rules;

(D) The caretaker relative is disabled, based upon criteria set forth in the department's rules; or

(E) As otherwise required by federal and state laws or regulations.

(4) The exemptions in subdivision (d)(3) are subject to the limitations for the percentages of individuals allowed to receive temporary assistance beyond sixty (60) months.

(e)(1) No payment of assistance shall be made for an individual who is not the head of a household, who has not reached eighteen (18) years of age, who has a child who is at least sixteen (16) weeks of age in the person's care, and who has not successfully completed a high school education or its equivalent, unless the individual participates in educational activities directed toward the attainment of a high school diploma or its equivalent.

(2) No payment of assistance shall be made to an individual who is head of a household, who has not reached twenty (20) years of age, who has a child who is at least sixteen (16) weeks of age in the person's care, and who has not successfully completed a high school education or its equivalent unless the individual participates in:

(A) Educational activities directed toward the attainment of a high school diploma or its equivalent; or

(B) Thirty (30) hours of countable work activities as delineated in subsection (g).

(f)(1) Except as provided in subdivision (f)(2), if a person applying for assistance under this chapter is under eighteen (18) years of age, has never married, and is either pregnant or has the applicant's child in the applicant's care, the applicant is not eligible for assistance if:

(A) The applicant and the applicant's child or children do not live in a place maintained by the applicant's parent, legal guardian, or other adult relative as such person's own home or other suitable living arrangement as otherwise defined by rule of the department; and

(B) The department determines after investigation that the physical or emotional health or safety of the person applying for assistance or the dependent child or children would not be jeopardized if the applicant and the dependent child or children were required to live in one of the situations described in subdivision (f)(1)(A).

(2) Subdivision (f)(1) does not apply if:

(A) The person applying for assistance has no parent, legal guardian or other adult relative whose whereabouts are known;

(B) No parent, legal guardian or other adult relative of the person applying for assistance allows the person to live in the home of that parent, legal guardian or other adult relative as determined by the department's verification; or

(C) The department otherwise determines that there is good cause not to apply subdivision (f)(1).

(g) All family members who are not otherwise exempt pursuant to rules of the department and who receive temporary assistance pursuant to this part shall engage in work, training or educational activities. The department shall define the types of activities by rule. These activities may include, but shall not be limited to, the following:

(1) Employment;

(2) Work experience activities;

(3) On-the-job training;

(4) Job search and job readiness assistance;

(5) Community service programs;

(6) Vocational educational training;

(7) Job skills and educational training related directly to employment;

(8) Education directly related to employment, in the case of a recipient who has not received a high school diploma or a certificate of high school equivalency; and

(9) Satisfactory attendance at a secondary school, in the case of a recipient who:

(A) Has not completed secondary school; and

(B) Is a dependent child or a head of a household who is nineteen (19) years of age or younger.

(h)(1) As a condition of eligibility, an applicant for or a recipient of temporary assistance must agree to a personal responsibility plan developed by the department in direct consultation with the applicant or recipient. For all applicants or recipients who are not exempt from the work requirements established by this part, an individualized career plan shall be developed establishing goal-oriented work activities designed to provide the applicant or recipient with an opportunity to move toward self-sufficiency. Supportive services determined essential to successful engagement in the work activities shall be provided. At least once each twelve (12) months throughout the period of continuous temporary assistance provided pursuant to this part, the department shall monitor and evaluate the personal responsibility plan to promote the recipient's success in gaining self-sufficiency.

(2)(A) The personal responsibility plan shall require participation in personal responsibility activities as set forth in subsection (g). The department may provide either a parent education training class for parents or caretakers of children in pre-kindergarten through third grade (pre-K-3) or a program of volunteer service in school in which a parent or caretaker relative who is a recipient of temporary assistance under this part may agree to participate.

(B) The personal responsibility plan shall also require the parent or other caretaker relative, regardless of age or disabling status, to enter a plan that requires, but is not limited to, the following:

(i) The children in the family attend school;

(ii) The children in the family receive immunizations and health checks; and

(iii) The parent or caretaker relative cooperate in the establishment and enforcement of child support, including, but not limited to, the naming of the father of a child for purposes of paternity establishment, unless good cause not to cooperate exists, as defined by the department.

(iv) The personal responsibility plan shall include requirements, if the need is identified relative to the child, that:

(a) *The parent or a suitable adult or guardian shall attend two (2) or more conferences within a year with the child's teacher to review the child's status in school;*

(b) *Attend at least eight (8) hours of parenting classes; or*

(c) *The parent shall participate in such support services that the child may need as determined by the department to overcome any school, family, or other barriers that may interfere with the child's and the family's ability to be successful.*

(C)(i) Unless exempt, refusal or failure to engage in full-time employment, part-time employment or other training or other work preparation activities as set forth in subsection (g), without good cause, or the failure to cooperate in the establishment or enforcement of child support without good cause, shall result in denial of eligibility for, or termination of, temporary assistance for the entire family unit.

(ii) Failure to comply with the personal responsibility plan as required under subdivisions (h)(2)(B)(i) and (ii), without good cause, shall result in a percentage reduction with regard to the temporary assistance payment in the amount of twenty percent (20%) until such time as compliance occurs.

(D) The personal responsibility plan may provide transportation assistance, if needed to participate in required activities; provided, that the department shall first utilize available community transportation resources before providing such assistance from department funds. The department shall provide childcare services for those individuals who are receiving benefits, participating in work activities delineated in subsection (g), and not exempt from work activities pursuant to this part.

(3) The work requirements shall be excused for:

(A) A parent or caretaker relative who proves to the satisfaction of the department the existence of the person's temporary incapacity or permanent disability;

(B) A parent or caretaker relative who proves to the satisfaction of the department that the person must provide personal care for a disabled relative child or adult relative living in the home;

(C) A single parent with a child under sixteen (16) weeks of age;

(D) A person who is sixty-five (65) years of age or older;

(E) A nonparental caretaker relative who chooses not to be included in the assistance group; and

(F) Other exemptions that may be required by federal law or regulation, as well as other exemptions that may be established by rule of the department in order to promote the purposes of this part.

(4) If, without good cause, a recipient of temporary assistance fails to comply with a child support or work plan requirement imposed by this part

or prescribed within the personal responsibility plan, then the family shall be subject to appropriate sanction by the department, which may include termination of assistance for a period to be determined by the department.

(i) The maximum payment standard for a family shall not be increased for a child who is born to a caretaker relative of a temporary assistance unit who, as determined by the statement of a physician, becomes pregnant while receiving temporary assistance, or as otherwise defined by regulation of the department; provided, that if the family loses eligibility for any reason other than a failure to cooperate with the department or a failure to comply with the personal responsibility plan and if the family subsequently becomes eligible again for temporary assistance, then the department shall base the maximum payment standard on the actual size of the family unit including such child.

(j) No payment of temporary assistance shall be made to an individual for ten (10) years from the date of conviction, guilty plea or plea of nolo contendere of that individual in a federal or state court for having made a fraudulent statement or representation with respect to the place of residence of the individual in order to receive assistance simultaneously from two (2) or more states under the temporary assistance program under this part, TennCare or any program of medical services under Title XIX of the Social Security Act, compiled in 42 U.S.C. § 1396 et seq., the Food Stamp Act of 1977, compiled in 7 U.S.C. § 2011 et seq., or under the supplemental security income program under Title XVI of the Social Security Act, compiled in 42 U.S.C. § 1381 et seq.

(k)(1) No payment of assistance shall be made to an individual who is fleeing to avoid prosecution or custody or confinement after conviction under the laws of the place from which the individual flees, for a crime, or an attempt to commit a crime, that is a felony under the laws of the place from which an individual flees, or that, in the case of the state of New Jersey, is a high misdemeanor under the laws of such state, or who is violating a condition of probation or parole imposed by federal or state law.

(2)(A) Pursuant to the option granted the state by 21 U.S.C. § 862a(d), an individual convicted on or before June 30, 2011, under federal or state law of a felony involving possession, use or distribution of a controlled substance shall be exempt from the prohibition contained in 21 U.S.C. § 862a(a) against eligibility for families first program benefits for such convictions, if such person, as determined by the department:

*(i)**(a)** Is currently participating in a substance abuse treatment program approved by the department of human services;*

***(b)** Is currently enrolled in a substance abuse treatment program approved by the department of human services, but is subject to a waiting list to receive available treatment, and the individual remains enrolled in the treatment program and enters the treatment program at the first available opportunity;*

***(c)** Has satisfactorily completed a substance abuse treatment program approved by the department of human services; or*

***(d)** Is determined by a treatment provider licensed by the department of mental health and substance abuse services not to need substance abuse treatment according to TennCare guidelines; and*

(ii) Is complying with, or has already complied with, all obligations imposed by the criminal court, including any substance abuse treatment obligations.

(B) Eligibility based upon the factors in subdivision (k)(2)(A) must be based upon documentary or other evidence satisfactory to the department,

and the applicant must meet all other factors of program eligibility, including, specifically, being accountable for the requirements of the personal responsibility plan required by this part.

(C) Notwithstanding subdivision (k)(2)(A) or (k)(2)(B) to the contrary, no person convicted of a Class A felony for violating a provision of title 39, chapter 17, part 4 shall be eligible for the exemptions provided by subdivision (k)(2)(A) or (k)(2)(B).

(D) Pursuant to the option granted the state by 21 U.S.C. § 862a(d), an individual convicted on or after July 1, 2011, under federal or state law of a felony involving possession, use or distribution of a controlled substance shall be exempt from the prohibition contained in 21 U.S.C. § 862a(a) against eligibility for families first program benefits for such convictions, if such person meets the following requirements:

(i) Requirements contained in subdivision (k)(2)(A) or (k)(2)(B) and (C);

(ii) If treatment was prescribed according to the requirements in subdivision (k)(2)(A) or (k)(2)(B), successful completion of a substance abuse program must occur within three (3) attempts. If such person does not complete the originally prescribed treatment program within three (3) attempts, the individual shall be ineligible for a period of three (3) years.

(E) Pursuant to the option granted the state by 21 U.S.C. § 862a(d), an individual convicted of a second drug felony under federal or state law of a felony involving possession, use or distribution of a controlled substance on or after July 1, 2011, shall not be eligible for families first program benefits for a period of three (3) years from the date of conviction.

(l) *No payment of assistance pursuant to this part shall be made for an illegal alien in a family.*

71-3-105. Rules and regulations — Deductions — Reports to governor and general assembly — Miscellaneous provisions. [Effective until December 1, 2018. See the version effective on December 1, 2018.]

(a) In determining eligibility under § 71-3-104 for, and amounts of, grants under the temporary assistance program, the department of human services shall adopt rules and regulations establishing a standard of need that reflects the true cost of the following, less any discounts for other sources of assistance provided for in subsection (b):

(1) Safe, healthful housing;

(2) Minimum clothing for health and decency;

(3) A low cost adequate food budget as recommended by the United States department of agriculture's thrifty food plan, codified at 7 U.S.C. § 2012(u);

(4) An allowance for essential medical care; and

(5) Other necessary items including, but not limited to, transportation, personal care and educational expenses.

(b) The department shall deduct from the costs determined in subsection (a) the value of the following:

(1) Housing assistance programs;

(2) Food coupons or food stamps or food assistance under chapter 5, part 3 of this title; and

(3) TennCare or medicaid.

(c) The commissioner shall report to the governor and the general assembly no later than October 1 of each year regarding projected annual adjustments to the standard of need necessitated by changes in the costs and benefits described in subsections (a) and (b). The report of the commissioner shall also contain:

(1) An estimate of the percentage of the adjusted standard of need that could be paid if the appropriation for the next fiscal year were to remain constant;

(2) An estimate of the cost of paying the same percentage of the standard of need considering necessary adjustments in such standard of need;

(3) The recommendation of the commissioner as to the percentage of the adjusted standard of need that should be paid in the next fiscal year and the cost of that adjusted standard of need; and

(4) Any other relevant information that would be helpful to the governor and the general assembly in making decisions concerning the temporary assistance program.

(d) Any amount of earned income in an aid-to-the-blind case, as provided in § 71-4-105, and any other income required by federal statutes to be exempt in determining need, shall be exempt and shall not be considered as a resource in determining the amount of assistance to be paid to any person under this part.

(e) The standard of need for each fiscal year shall be established by rule on July 1 of each year in accordance with subsections (a) and (b).

(f)(1) The department of human services shall conduct a temporary assistance client characteristics study at least once every three (3) years. The study shall be conducted either by contract or within the department and shall be completed prior to any review, required by federal regulation, of the temporary assistance standard of need and temporary assistance grant payments.

(2) The maximum grants for the temporary assistance program, expressed as a percentage of the standard of need, shall be established either in the annual appropriations act or by rule. Notwithstanding any provision of this section or other law to the contrary, the standard of need for each assistance group size, which was established and funded at five hundred eighty-three dollars ($583) for an assistance group size of three (3) persons for fiscal year 1995-1996 and was set accordingly for other assistance group sizes, shall be increased to six hundred seventy-seven dollars ($677) for an assistance group size of three (3) persons, and shall be set accordingly for other assistance group sizes for fiscal year 1996-1997; provided, that, during the fiscal year beginning July 1, 1996, the commissioner of human services may, with the concurrence of the commissioner of finance and administration, reduce the standard of need to the level established in this section for the year ending June 30, 1996, based upon a showing that the increased standard of need is having a substantial unforeseen adverse impact on the temporary assistance budget. Upon seeking the required concurrence of the commissioner of finance and administration with regard to any such proposed reduction in the standard of need, the commissioner of human services shall simultaneously submit written notification of such proposed reduction to the chairs of the finance, ways and means committees of the senate and the house of representatives and to the office of the legislative budget analysis.

(g) In determining eligibility under § 71-3-104, the department shall adopt

rules that use the standard of need less any exemption provided by subsection (d) to determine eligibility for amounts of grants. Such rules shall be adopted in a manner in which the maximum amount of child support and other income may be provided to the family and children without loss of grant and medicaid benefits.

71-3-105. Rules and regulations — Deductions — Reports to governor and general assembly — Miscellaneous provisions. [Effective on December 1, 2018. See the version effective until December 1, 2018.]

(a) In determining eligibility under § 71-3-104 for, and amounts of, grants under the temporary assistance program, the department of human services shall adopt rules and regulations establishing a standard of need that reflects the true cost of the following, less any discounts for other sources of assistance provided for in subsection (b):

(1) Safe, healthful housing;

(2) Minimum clothing for health and decency;

(3) A low cost adequate food budget as recommended by the United States department of agriculture's thrifty food plan, codified at 7 U.S.C. § 2012(u);

(4) An allowance for essential medical care; and

(5) Other necessary items including, but not limited to, transportation, personal care and educational expenses.

(b) The department shall deduct from the costs determined in subsection (a) the value of the following:

(1) Housing assistance programs;

(2) Food coupons or food stamps or food assistance under chapter 5, part 3 of this title; and

(3) TennCare or medicaid.

(c) The commissioner shall report to the governor and the general assembly no later than October 1 of each year regarding projected annual adjustments to the standard of need necessitated by changes in the costs and benefits described in subsections (a) and (b). The report of the commissioner shall also contain:

(1) An estimate of the percentage of the adjusted standard of need that could be paid if the appropriation for the next fiscal year were to remain constant;

(2) An estimate of the cost of paying the same percentage of the standard of need considering necessary adjustments in such standard of need;

(3) The recommendation of the commissioner as to the percentage of the adjusted standard of need that should be paid in the next fiscal year and the cost of that adjusted standard of need; and

(4) Any other relevant information that would be helpful to the governor and the general assembly in making decisions concerning the temporary assistance program.

(d) Any amount of earned income in an aid-to-the-blind case, as provided in § 71-4-105, and any other income required by federal statutes to be exempt in determining need, shall be exempt and shall not be considered as a resource in determining the amount of assistance to be paid to any person under this part.

(e) The standard of need for each fiscal year shall be established by rule on July 1 of each year in accordance with subsections (a) and (b).

(f)(1) The department of human services shall conduct a temporary assistance client characteristics study at least once every three (3) years. The study

shall be conducted either by contract or within the department and shall be completed prior to any review, required by federal regulation, of the temporary assistance standard of need and temporary assistance grant payments.

(2)(A) Notwithstanding subdivision (f)(2)(B), the maximum grants for the temporary assistance program, expressed as a percentage of the standard of need, may be raised if approved as a line item in the annual appropriations act. An increase in the maximum grants for the temporary assistance program shall not be approved by rules.

(B) The maximum standard grant for the temporary assistance program shall be determined as follows:

(i) For an assistance group size of one (1) person, the maximum standard grant shall be twenty-two percent (22%) of the fiscal year 2018-2019 standard of need for an assistance group size of one (1) person; and

(ii) For each additional member added to an assistance group, an additional two percent (2%) shall be added to twenty-two percent (22%), and the maximum standard grant for each respective assistance group size shall be the resulting percentage of the fiscal year 2018-2019 standard of need for that assistance group size.

(C) The department is authorized to promulgate rules to effectuate this subsection (f) in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(g) In determining eligibility under § 71-3-104, the department shall adopt rules that use the standard of need less any exemption provided by subsection (d) to determine eligibility for amounts of grants. Such rules shall be adopted in a manner in which the maximum amount of child support and other income may be provided to the family and children without loss of grant and medicaid benefits.

71-3-1114. Email notice that enrollee must redetermine eligibility. [Effective until June 30, 2020.]

As a part of the process for redetermining an enrollee's eligibility for the program, the department shall establish a procedure that sends an email notice to the enrollee, or the parent or guardian of the enrollee, that the enrollee must redetermine eligibility for the program. The email notice is required only when the department has an email address for the enrollee or the parent or guardian of the enrollee.

71-5-105. Powers and duties of department — Total number of ICF/MR beds — Certificate of need exemption for DIDD public ICF/MR non-facility beds established pursuant to federal litigation.

(a) The department shall:

(1) Supervise the administration of medical assistance for eligible recipients;

(2) Make uniform rules and regulations, not inconsistent with the law, for implementing, administering and enforcing this part in an efficient, economical and impartial manner;

(3)(A) Establish, in consultation with the comptroller of the treasury, rules and regulations for the determination of payment for hospitals, and other health care providers who contract with the department for the care

of persons eligible for assistance pursuant to this part;

(B) Establish, in consultation with the comptroller of the treasury and the Tennessee Health Care Association (THCA), rules for an acuity and quality-based reimbursement methodology for nursing facility services paid for by the bureau of TennCare under the rules of the department and as designated and certified by the department. Payment determination components shall include acuity adjusted direct care, non-acuity adjusted direct care, quality, administration, fair market value capital, a cost-based component, and an inflation index factor. The inflation index factor that shall be the most recent Skilled Nursing Facility without Capital Market Basket Index as published by IHS Global Insight (IHS Economics) or other index as may be agreed to by the bureau of TennCare and the comptroller of the treasury, in consultation with THCA, should this index cease to be produced. The commissioner may establish the maximum amount to be paid to nursing facilities, consistent with the requirements of federal law and § 71-5-124(b);

(C) [Deleted by 2018 amendment.]

(D) [Deleted by 2018 amendment.]

(4) Cooperate with the appropriate federal department in any reasonable manner as may be necessary to qualify for federal aid in connection with the medical assistance program;

(5) Within sixty (60) days after the close of each fiscal year, prepare and print an annual report, which shall be submitted to the governor and members of the general assembly. This report shall include a full account of the operations and the expenditures of all funds under this part, adequate and complete statistics divided by counties about all medical assistance within the state, rules and regulations of the department promulgated to carry out this part, and such other information as it may deem advisable;

(6) Prepare or have prepared and release a summary statement monthly showing by counties the amount paid under this part and the total number of persons assisted;

(7) Establish and enforce safeguards to prevent unauthorized disclosures or improper use of the information contained in applications, reports of investigations and medical examinations, and correspondence in the individual case records of recipients of medical assistance;

(8) Furnish information to acquaint needy persons and the public generally with the plan for medical assistance of this state;

(9) Cooperate with agencies in other states in establishing reciprocal agreements to provide for payment of medical assistance to recipients who have moved to another state, consistent with this part and of Title XIX, compiled in 42 U.S.C. § 1396 et seq., as amended;

(10) Contract, to the extent feasible, with one (1) or more contractors or fiscal intermediaries, or both, to provide or arrange services under this part. All such contracts shall be procured in accordance with the requirements of title 12, chapter 4, part 1; provided, that the department shall be required to solicit competitive proposals for contracts with fiscal intermediaries;

(11) Increase the coverage under medicaid for inpatient hospital days from fourteen (14) days to twenty (20) days, as provided for in the public health regulations of the United States department of health and human services, health care financing administration (HCFA). Coverage for inpatient hospital days shall be unlimited for any infant under the age of one (1)

year to the extent required by federal law or regulations. The commissioner is further directed to promulgate a rule establishing a system of prospective reimbursement, targeted reimbursement, diagnosis-related groups, other method of reimbursement related to diagnosis, or other method of reimbursement pursuant to any federal waiver that waives any or all of the provisions of Title XIX, compiled in 42 U.S.C. § 1396 et seq., that the state may receive or pursuant to any other federal law as adopted by amendment to the required Title XIX state plan, at which time such mechanism shall be used to determine the number of inpatient hospital days instead of the twenty-day limitation provided in this subdivision (a)(11); and

(12) Notwithstanding any law to the contrary, assist the council on children's mental health care in developing a plan that will establish demonstration sites in certain geographic areas where children's mental health care is child-centered, family-driven, and culturally and linguistically competent and that provides a coordinated system of care for children's mental health needs in this state.

(b)(1) The total number of beds in private for-profit and private not-for-profit intermediate care facilities for persons with mental retardation (ICF/MR) facilities shall not exceed a total maximum number of six hundred sixty-eight (668). In compliance with the certificate of need process, private for-profit and private not-for-profit ICF/MR beds may be transferred from one location to another but the total number of such beds shall not exceed six hundred sixty-eight (668).

(2) Beginning July 1, 2006, the total number of beds in ICF/MR facilities shall increase by forty (40) beds per year for the next four (4) years, resulting in a maximum of eight hundred twenty-eight (828) beds by July 1, 2009. Only providers that have been providing services to persons with developmental disabilities under contract with the state for at least five (5) years shall be eligible to apply for these new beds. These new beds shall be initially filled by persons exiting the developmental centers, and upon the death or discharge of the person who exited the developmental center, the bed may be filled by individuals currently enrolled in one of the home and community based services (HCBS) waivers for individuals with intellectual disabilities or the waiting list for individuals with intellectual disabilities, subject to the individual's freedom of choice and pursuant to a process established and administered by the department of intellectual and developmental disabilities (DIDD) in order to ensure that such placement is the most integrated and cost-effective setting appropriate. Providers may refuse persons based on needs compatibility with the total mix of persons in the facility. If fewer than four (4) persons transitioning from a developmental center as part of the developmental center closure have selected a provider, the remaining beds necessary to establish the four-person home may be filled by individuals currently enrolled in one of the HCBS waivers for individuals with intellectual disabilities or the waiting list for individuals with intellectual disabilities, subject to the individual's freedom of choice and pursuant to a process established and administered by DIDD in order to ensure that such placement is the most integrated and cost-effective setting appropriate. DIDD shall do everything possible to provide referrals for these new beds. DIDD shall demonstrate a commitment to ensuring the individual's freedom of choice and ensure that every eligible service recipient is fully informed of all services available to them, including community ICF/MR facilities and

the specialized services they provide.

(3) DIDD is to appoint a nine-person taskforce to review oversight, utilization, and future need for ICF/MR services and make recommendations to the general assembly and governor by June 30, 2007. Three (3) of the members of the taskforce shall be appointed by the DIDD from a list of persons provided by Tennessee Community Organizations (TNCO), and three (3) of the members shall be appointed by DIDD from a list of persons provided by ARC of Tennessee. The remaining three (3) members shall be employees of DIDD or other state agencies. DIDD shall designate one (1) of the members as chair of the taskforce.

(c) Notwithstanding any authority to the contrary, DIDD public ICF/MR non-facility beds established pursuant to federal litigation settlements or orders arising out of the cases *United States v. State of Tennessee*, 798 F. Supp. 483; 1992 U.S. Dist. LEXIS 14004 (W.D. Tenn. 1992), or *People First of Tennessee, et al., v. Clover Bottom Developmental Center, et al.*, NO. 00-5342 (Docket) (C.A.6 Mar. 22, 2000), shall be exempt from all requirements and processes for the application and granting of certificates of need as set forth in § 68-11-1607. The establishment of all private ICF/MR non-facility beds remains subject to certificate of need requirements and processes.

71-5-151. Report on use of technical assistance groups of healthcare providers in developing episode of care.

(a) In developing or implementing any payment reform initiative involving the use of episodes of care with respect to medical assistance provided under this chapter by the bureau of TennCare or the health care finance and administration (HCFA) of the department of finance and administration, the bureau and HCFA shall report on the use of technical assistance groups of healthcare providers in developing any episode of care. The reports shall include all recommendations made by technical assistance groups throughout the period of implementation of any episode of care. In addition to any other information required in the quarterly report to the general assembly pursuant to § 71-5-104(c), the bureau of TennCare shall summarize in quarterly reports the recommendations of any technical assistance group concerning the payment reform initiative and identify any action taken by the bureau or HCFA to address those recommendations. The bureau and HCFA shall report to the health committee of the house of representatives and the health and welfare committee of the senate by July 1 each year, beginning in 2016, specifically concerning the use of technical assistance groups, on each recommendation made by those groups, and the response by the bureau or HCFA to each recommendation. This section shall apply to any payment reform initiative utilizing episodes of care, including any initiative receiving a state innovation model initiative grant from the federal centers for medicare and medicaid services.

(b) In developing or implementing any payment reform initiative involving the use of episodes of care with respect to medical assistance provided under this chapter by the bureau of TennCare or the health care finance and administration (HCFA) of the department of finance and administration, the bureau and HCFA shall not impose a fine or penalty on any provider. The bureau and HCFA may impose withholds in order to recover some portion of costs that exceeds a cost threshold for an episode developed by the initiative.

A withhold may not be called a fine or a penalty.

(c)(1) The bureau of TennCare and the HCFA shall study the means of fair and just implementation of the episodes of care initiatives, especially with respect to costs associated with:

(A) A healthcare facility located in an area that lacks an alternative healthcare facility within a thirty-minute drive;

(B) Lack of more than a single provider of healthcare services for, including, but not limited to, radiology, anesthesia, pathology, or physical therapy; and

(C) Contractual arrangements between the bureau of TennCare, managed care organizations, and other participating providers or healthcare facilities associated with the particular episode of care if such contracts are the cause of increased costs.

(2) No later than January 31, 2019, the bureau of TennCare and HCFA shall report the results of the study conducted pursuant to this subsection (c) to the health and welfare committee of the senate and the health committee of the house of representatives.

(d)(1) In developing or implementing any payment reform initiative involving the use of episodes of care with respect to medical assistance provided under this chapter by the bureau of TennCare, a healthcare provider shall not be required to pay the portion of the risk sharing payment that is attributable to the increased cost of pain relief services if the following conditions are met:

(A) The healthcare provider is required to make an episodes of care risk-sharing payment to a managed care organization;

(B) Some portion of the episode costs were due to pain relief services;

(C) The pain relief services provided to the patient were more expensive than an alternative pain relief service; and

(D) The provider can demonstrate that the pain relief services provided to the patient had the effect of reducing opioid use by the patient relative to an alternative pain relief service routinely used by other providers in the episode.

(2) The bureau of TennCare is authorized to promulgate rules, pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, as may be necessary to implement this section.

(e) On and after July 1, 2018, in developing or implementing any payment reform initiative involving the use of episodes of care with respect to medical assistance provided under this chapter by the bureau of TennCare or the health care finance and administration (HCFA) of the department of finance and administration, the bureau and the HCFA shall exclude anxiety episodes and non-emergent depression episodes from the initiative. This subsection (e) shall apply to any initiative receiving a state innovation model initiative grant from the federal centers for medicare and medicaid services.

71-5-157. Establishment of state policy to avoid use of state funds for elective abortions.

(a) It is the policy of the state to favor childbirth as integral to the health and welfare of the citizens of the state and therefore to favor family planning services that do not include elective abortions or the promotion of elective abortions within the continuum of care or services offered by the provider and to avoid the direct or indirect use of state funds to promote or support

elective abortions.

(b) In furtherance of this state policy, a waiver amendment to the existing TennCare II waiver that requires elective abortion providers be excluded from participation as providers in the TennCare program shall be submitted to the federal centers for medicare and medicaid services for approval. The waiver amendment shall be implemented within ten (10) business days of approval.

(c) For purposes of this section, an "elective abortion provider" means any entity that performed, or operated or maintained a facility that performed, more than fifty (50) abortions in the previous year, or any affiliate of such an entity.

(d) This section does not affect compliance with § 9-4-5116.

71-5-158. Amendment to TennCare ll waiver relating to work and community engagement requirements for certain adult enrollees.

An amendment to the existing TennCare II waiver shall be submitted to the federal centers for medicare and medicaid services (CMS) authorizing the bureau of TennCare to create reasonable work and community engagement requirements for able-bodied working age adult enrollees without dependent children under the age of six (6). The waiver shall be consistent with the most recent guidance to state medicaid directors provided by CMS concerning opportunities to promote work and community engagement in demonstration projects authorized under § 1115 of the federal social security act (42 U.S.C. § 1315). The state shall seek the necessary approval from the United States department of health and human services to utilize funds from the temporary assistance to needy families (TANF) program under the Families First Act of 1996, compiled in chapter 3, part 1 of this title, for eligible expenditures related to the waiver. Implementation of the waiver shall be contingent upon the available use of TANF funds or other federal appropriations to meet the requirements of the waiver.

71-5-197. Authority over TennCare pharmacy purchases — Confidential information — Exemption from open meeting laws.

(a) The bureau of TennCare is authorized to remove pharmacy services from managed care organization (MCO) contracts and assume direct responsibility for all TennCare pharmacy purchases.

(b) The bureau of TennCare is authorized to implement, either independently or in combination with a state preferred drug list (PDL), cost saving measures for pharmaceutical services, including, but not limited to, tiered co-payments, reference pricing, prior authorization and step therapy requirements; provided, however, that any prior approval process shall, at a minimum, comply with 42 U.S.C. § 1396r-8(d)(5), which requires a response to a request for prior authorization within twenty-four (24) hours and further requires at least a seventy-two (72) hour supply of a covered outpatient drug in an emergency situation.

(c) The bureau of TennCare, through a state pharmacy benefit manager (PBM) or on its own, is authorized to negotiate supplemental manufacturer rebates for TennCare prescription drug purchases; provided, however, that when conducting such negotiations, the bureau or PBM, or both, shall utilize

the average manufacturer's price (AMP) as defined in 42 U.S.C. § 1396r-8(k)(1) or any other recognized acceptable basis for negotiating rebates as the cost basis for the product.

(d) Notwithstanding any other law to the contrary, all information and documents containing trade secrets, proprietary information, rebate amounts for individual drugs or individual manufacturers, percent of rebate for individual drugs or individual manufacturers, and manufacturer's pricing that are contained in records of the TennCare bureau, the state of Tennessee and its agents shall be confidential and shall not be a public record for the purposes of title 10, chapter 7, part 5. Nothing in this subsection (d) shall be construed to prohibit the TennCare bureau and the state of Tennessee from disclosing the information covered by this subsection (d) to members of the state TennCare pharmacy advisory committee, who shall be deemed agents of the state of Tennessee for purposes of this subsection (d).

(e) Notwithstanding any other law to the contrary, those portions of meetings of the state TennCare pharmacy advisory committee at which information described in subsection (d) is disclosed for discussion are exempt from title 8, chapter 44.

(f)(1) The bureau of TennCare shall promulgate rules to promote the safe and responsible coverage of opioids for TennCare members who have the TennCare pharmacy benefit. The rules must, at a minimum, address prior authorization requirements for opioid prescriptions, as determined by the bureau, to reduce the development of opioid dependency and addiction. For women of child-bearing age, when prior authorization is required for an opioid prescription, the rules must require the provider to submit information regarding pregnancy status, contraceptive use, and the provision of counseling regarding the risks of becoming pregnant while receiving opioid medication. The information regarding pregnancy status and contraceptive use may, when appropriate, be based on self-reporting by the patient.

(2) The rules required by this subsection (f) shall be promulgated pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5. On or before January 1, 2019, the bureau shall report to both the health and welfare committee of the senate and the health committee of the house of representatives regarding the status of the rules required by this subsection (f).

71-5-314. Fraudulent receipt of food assistance — Penalties — Statute of limitations. [Effective on December 1, 2018. See the version effective until December 1, 2018.]

(a) A person commits an offense who, knowingly, obtains, or attempts to obtain, or aids, or abets any person to obtain, by means of a willfully false statement, representation, or impersonation, or by any other fraudulent means or in any manner not authorized by this part, or by the regulations or procedures issued or implemented by the department pursuant to this part, any food coupons, food stamps, or food assistance benefits provided by any electronic benefits transfer process, or any assistance provided pursuant to this part by any other means as determined by the department, to which such person is not entitled or of a greater value than that to which such person is entitled.

(b) A person commits an offense who, knowingly, in any manner not authorized by this part or the regulations or procedures implemented by the

department pursuant to this part, presents for payment, or causes to be presented for payment, transfers, exchanges, sells, or otherwise uses, or aids or abets any person to present for payment, transfer, exchange, sell, or otherwise use any food coupons, food stamps or food assistance benefits, or any electronic benefits card, authorization or personal identification number, device or other thing or means issued or utilized for the purpose of providing temporary assistance benefits pursuant to this part electronically or otherwise.

(c) A person who receives food coupons, food stamps or food assistance benefits or any electronic benefits card, authorization or personal identification number, device or other thing or means issued or utilized for the purpose of providing food assistance benefits electronically or otherwise, knowing them to have been presented for payment, transferred, exchanged, sold or otherwise used in any manner not authorized by this part or the regulations or procedures implemented by the department pursuant to this part, commits an offense.

(d) An offense under this section is a Class E felony if the value of such food stamps, food coupons, or food assistance sought to be obtained, or that is obtained, is one hundred dollars ($100) or more, and upon conviction of the offense, such person shall be sentenced for such offense as provided by law, or shall be fined not less than one thousand dollars ($1,000) nor more than five thousand dollars ($5,000), or both; and, if the food stamps, food coupons, or food assistance sought to be obtained, or that is obtained, is of a value less than one hundred dollars ($100), such person commits a Class A misdemeanor and shall be sentenced or fined, or both, as provided by law.

(e) In addition to or in lieu of any of the penalties in this section, the court may order that such person be disqualified from participation in the food coupon, food stamp or food assistance program for twelve (12) months for the first offense, twenty-four (24) months for the second offense, and permanently for the third offense. Disqualification pursuant to this section of any adult from eligibility for assistance under this part shall not operate to disqualify or suspend the eligibility of an innocent adult or child of the disqualified person's family.

(f) The department shall enclose a copy of the penalties provided in this section one (1) time, in notice form, to each recipient of assistance pursuant to this part and post a notice to such effect in noticeable places in each of its assistance offices.

(g) In addition to any of the penalties in this section, any person convicted of any offense specified in subsection (a), (b) or (c) shall be ordered to make restitution in the total amount found to be the value of the food coupons, food stamps or food assistance that form the basis for the conviction. In the event any person ordered to make restitution pursuant to this section is found to be indigent and, therefore, unable to make restitution in full at the time of conviction, the court shall order a periodic payment plan consistent with the person's financial ability.

(h) Notwithstanding any other law to the contrary, prosecutions for any of the offenses specified in subsection (a), (b) or (c) shall be commenced within four (4) years after the commission of the offense. For purposes of this subsection (h), any such offense that is based upon a willful failure to report information as required by law is considered a continuing offense until such information is reported.

(i)(1) In addition to any criminal provisions provided by this section, the department is authorized to address intentional program violations or

overpayments in the food assistance program through any administrative means, including, but not limited to, settlement of such violations or overpayments by a written agreement with recipients or by the provision of administrative hearings pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, part 3, and federal regulations.

(2) The department is authorized to initiate legal action to collect all overpayments and all payments made due to intentional program violations or fraud in the food assistance program.

(j) The department shall implement the following procedures regarding electronic benefits card replacement requests:

(1) The department shall, upon the third request within a twelve-month period, notify the recipient to provide information regarding fraud, abuse, and trafficking and inform the recipient of the consequences that result from a fourth request within a twelve-month period, as provided in subdivision (j)(2);

(2) The department shall, upon the fourth replacement request within a twelve-month period, notify the recipient that the recipient's case is being monitored for suspicious activity and has been referred to the department's office of inspector general for investigation; and

(3) If a third-party vendor provides replacement cards directly to recipients on behalf of the department, the vendor shall notify the department upon a third request within a twelve-month period by a recipient and upon any subsequent request thereafter.

71-5-316. Data matches. [Effective on December 1, 2018. See the version effective until December 1, 2018.]

(a) On at least a quarterly basis, the department of human services shall conduct data matches against information databases as required by federal law, including the following:

(1) Earned and unearned income information maintained by the federal internal revenue service;

(2) Employer reports of income and unemployment insurance payment information maintained by the federal department of labor;

(3) Earned income information maintained by the federal social security administration;

(4) Death register information maintained by the federal social security administration;

(5) Prisoner information maintained by the federal social security administration;

(6) Beneficiary records and earnings information maintained by the federal social security administration;

(7) Employment information maintained by the Tennessee department of labor and workforce development;

(8) Employment information regarding new hires maintained by the federal department of health and human services;

(9) Supplemental security income information maintained by the federal social security administration; and

(10) Veterans' benefits information maintained by the federal department of health and human services, in coordination with the Tennessee department of health and Tennessee department of veterans services.

(b) The department of human services shall, upon approval from the secre-

tary of the United States department of agriculture, take any steps necessary to enter into an intra-agency agreement joining a multi-state cooperative that identifies individuals who are currently receiving benefits in other surrounding states to minimize dual participation.

71-5-1002. Legislative intent — Creation of nursing home assessment trust fund.

(a) It is declared to be the legislative intent that every person is exercising a taxable privilege who engages in the business of providing nursing home care. The assessment fee imposed by this part shall be in addition to all other privilege taxes.

(b) The nursing home assessment trust fund is created. The general assembly intends that the proceeds of the annual assessment not be used as a justification to reduce or eliminate the state funding to the TennCare program. The fund shall not be used to replace any moneys otherwise appropriated to the TennCare program by the general assembly.

(c) The trust fund shall consist of:

(1) Amounts collected or received by the bureau from nursing home assessments under this part;

(2) Investment earnings credited to the assets of the nursing home assessment trust fund. The state treasurer shall invest amounts deposited within the account in accordance with law, and all investment earnings shall be credited back to the fund; and

(3) Any penalties levied in conjunction with the administration of this part.

(d) The trust fund is created for the purpose of receiving funds as specified in this section. Collected assessment funds shall be used to secure federal matching funds available through the state medicaid plan.

(e) All revenue collected pursuant to this part shall be deposited in the nursing home assessment trust fund.

(f) All nursing home annual assessment fee payments made by nursing homes under this section and received by this state; all investment earnings credited to the nursing home annual assessment fee payments; any interest and penalties paid under this section by any nursing home; and all funds generated by federal matching payments made relative to the nursing home annual assessment fee shall be available to and used by the bureau of TennCare for the sole purpose of providing payment to nursing homes.

(g) No part of the nursing home annual assessment fee payments made by nursing homes under this section and received by this state; the investment earnings credited to the nursing home annual assessment fee payments; the interest and penalties paid under this section by any nursing home; or the funds generated by federal matching payments made relative to the nursing home annual assessment fee shall be used for any purpose other than providing payment to nursing homes.

(h) The fund shall be used exclusively for the following purposes:

(1) To make expenditures for nursing facility services under the TennCare program for FY 2018-2019 at the full rates for the specified fiscal year as provided for under bureau of TennCare rules relative to the acuity- and quality-based reimbursement system and in accordance with § 71-5-105(a)(3)(B);

(2) To provide funding for the implementation of an acuity-based reimbursement system that shall include at a minimum a quality performance component for nursing facility services and a nursing rate component. The nursing rate component shall be adjusted by the average medicaid case-mix of the facility utilizing the Skilled Nursing Facility (SNF) Prospective Payment System (PPS) Resource Utilization Group-Version 4 (RUG-IV), 48-Grouper model;

(3) To pay nursing home covered services covered for medicaid beneficiaries within medicare upper payment limits, as negotiated with the bureau of TennCare. The upper payment limit of all nursing homes shall be calculated by the bureau of TennCare using the higher of the cost-based or prospective payment system approach in accordance with 42 C.F.R. 447.272; and

(4) Not later than June 30, 2018, a one-time transfer in the amount of fifteen million one hundred seventy-three thousand one hundred twenty-five dollars ($15,173,125) shall be made from the nursing home trust fund to the bureau of TennCare. The payment equals the amount of TennCare funds that were used in fiscal years 2014-2015 and 2015-2016 to fund nursing home expenditures due to a budgetary restriction on the amount of nursing home fees that could be used.

(i) Any funds remaining in the nursing home assessment trust fund after payments are made as provided for in subsection (h) shall remain in the trust fund as a reserve for future uses consistent with subsection (h). If the funds in the nursing home assessment trust fund are insufficient to meet all the purposes established in § 71-5-1004(b), the bureau of TennCare shall not be required to procure additional funding from other sources to make the payments noted in § 71-5-1004(b), but instead shall be permitted to reduce all payments on a pro rata basis so as not to exceed the amounts held at any time in the nursing home assessment trust fund.

71-5-1003. Payment of assessments — Determination of rate — Time for payment.

(a) Each nursing home shall pay the nursing home assessment in quarterly installments to the account in accordance with this part. In the event of a change of ownership or management of a nursing facility, the successor entity shall be liable for all unpaid nursing home assessment fees, penalties, and interest, and full payment of those fees, penalties, and interest shall be a precondition to the successor entity obtaining a TennCare identification number.

(b) The aggregated amount of assessments for all nursing facilities during a fiscal year shall not be less than the amount necessary to fund the provisions of this part or exceed the maximum amount that may be assessed pursuant to the indirect guarantee threshold as established pursuant to 42 C.F.R. 433.68(f)(3)(i). The bureau shall determine the assessment rate prospectively for the applicable fiscal year on a per-resident-day basis, exclusive of medicare resident days. The per-resident day assessment rate shall be established pursuant to subsection (c). The bureau shall promulgate rules for facility reporting of non-medicare resident days and for payment of the assessment.

(c) The total aggregated amount of assessments for all nursing facilities from July 1, 2018, through June 30, 2019, shall equal four and three-quarters percent (4.75%) of the net patient service revenue. The total aggregated

amount of assessment for all nursing facilities, and the annual assessment determined for each nursing facility, shall be established on July 1st of each year. Once established, neither amount shall vary during each fiscal year. Each nursing facility shall have an annual assessment amount that shall be determined as follows:

(1) Any licensed nursing home that is licensed on July 1, 2018, for fifty (50) beds or fewer shall pay an assessment rate equal to three percent (3%) of net patient service revenue, divided by all non-medicare days. The facility shall pay the per diem rate for each of its non-medicare days;

(2) Any licensed nursing home that on July 1, 2018 operates as part of a continuing care retirement community shall pay an assessment rate equal to three percent (3%) of net patient service revenue, divided by all non-medicare days. The facility shall pay the per diem rate for each of its non-medicare days;

(3) Any licensed nursing home that is licensed on July 1, 2018, and provided forty thousand (40,000) or greater medicaid patient days for the twelve (12) months ending December 31 of the prior year shall pay an assessment rate equal to two and one-half percent (2.50%) of net patient service revenue divided by all non-medicare patient days. The facility shall pay the per diem rate for each of its non-medicare days.

(4) Any new nursing home facility that is initially licensed and commences operations after July 1, 2018, shall pay in FY 2018-2019 a prorated assessment equal to two thousand two hundred twenty-five dollars ($2,225) per licensed bed per year, prorated to accrue from the date the nursing facility became certified to participate in TennCare. The change in ownership of an existing licensed facility shall not meet the requirements of this subdivision (c)(4);

(5) Any licensed nursing home not meeting the criteria of subdivisions (c)(1)-(4) shall pay an equal per facility annual assessment amount at such amount as is necessary to ensure that the total aggregated amount of assessment for all nursing facilities from July 1, 2018, through June 30, 2019, shall equal four and three-quarters percent (4.75%) of the net patient service revenue, when such total aggregated assessment amount is established on July 1st of each year;

(6) Any excess collections of per facility annual assessments above the targeted four and three-quarters percent (4.75%) of the net patient service revenue shall be retained in the nursing home assessment trust fund account created under this part. Should actual collections of per facility annual assessments not equal the targeted four and three-quarters percent (4.75%) of the net patient service revenue, any shortfall may be made up from funds in the nursing home assessment trust fund account created under this part, or from other appropriations to the TennCare program; and

(7) Any facility that ceases to be licensed by the department of health shall not be required to pay assessment fees accruing after the date of its licensure termination.

(d) Each nursing home shall pay its nursing home annual assessment fee as set forth in subsection (c) in equal quarterly installments, with the first quarterly installment due on the fifteenth day of the first month of the first quarter of the state fiscal year after the bureau of TennCare has satisfied the requirements of subsection (f). Subsequent installments shall be due on the fifteenth day of the first month of the three (3) successive calendar quarters

following the calendar quarter in which the first installment is due.

(e) Nursing homes shall not create a separate line-item charge on the bill reflecting the assessment.

(f) [Deleted by 2018 amendment.]

71-5-1004. Quality-based component of reimbursement methodology for nursing facility services.

(a)(1) A specified amount of the funding for nursing facility (NF) services shall be set aside during each fiscal year for purposes of calculating a quality-based component of each NF provider's per diem payment as a quality incentive component, which shall be in addition to quality informed aspects of the NF reimbursement methodology.

(2) At the outset of the implementation of these acuity and quality-based reimbursement systems, the amount of funding set aside for the quality-based component of the reimbursement methodology for nursing facilities shall be no less than forty million dollars ($40,000,000) or four percent (4%) of the total projected fiscal year expenditures for NF services, whichever is greater.

(3) In each subsequent year, the amount of funding set aside for the quality-based component of the reimbursement methodology for nursing facilities shall increase at two (2) times the rate of inflation of the index factor. Index factor inflation shall be calculated from the midpoint of the prior state fiscal year to the midpoint of the new state fiscal year.

(4) This annual quality-based component index factor adjustment shall continue until such time that the quality-based component of the reimbursement methodology for nursing facilities constitutes ten percent (10%) of the total projected fiscal year expenditures for NF services. Once the quality-based component of the reimbursement methodology constitutes ten percent (10%) of the total projected fiscal year expenditures for NF services, it shall then increase or decrease at a rate necessary to ensure that the quality-based component of the reimbursement methodology remains at ten percent (10%).

(5) All noted minimum quality-based component thresholds and index factor inflationary adjustments are made prior to consideration of the budget adjustment factor (BAF).

(b)(1) The base-year annualized medicaid resident day-weighted median costs and prices shall be rebased at an interval no longer than three (3) years after a new base year period has been established. The new base year median costs and prices will be established using the most recently audited or desk reviewed cost reports that have a cost reporting period greater than six (6) months, with a cost report end date eighteen (18) months or more before the start of the rebase period.

(2) Cost reports issued a disclaimer of opinion during the audit process or cost reports containing substantial issues, including incomplete filing, during the desk review process, as solely determined by the comptroller of the treasury, will be excluded from the median and price calculations.

(3) Only audited or reviewed cost reports available prior to the July 1 rate setting will be considered in the median and price calculations.

(c)(1) The initial quality outcome measures and point values established for the NF reimbursement system implemented on July 1, 2018, shall be based

upon the structure of the QuILTSS criteria established by the bureau of TennCare on August 5, 2014. The bureau of TennCare may establish quality outcome measures and performance benchmarks by rulemaking consistent with this section.

(2) Quality outcome measures and performance benchmarks for each measure shall not be modified for the first three (3) fiscal years of reimbursement unless agreed to by TennCare in consultation with the Tennessee Health Care Association (THCA). After the initial three (3) year period, quality outcome measures, performance benchmarks for each measure, and point values shall be established in consultation with THCA. Any modifications to such criteria shall be established through rulemaking and shall not be changed for another three-year period.

(d) Any submissions by any facility relating to documentation of and participation in the quality-based component of the reimbursement methodology for nursing facilities shall be confidential and privileged and shall be protected from direct or indirect means of discovery, subpoena, or admission into evidence in any judicial or administrative proceeding. However, nothing in this rule shall be construed to make immune from discovery or use in any judicial or administrative proceeding information, record, or documents that are otherwise available from original sources kept in the facility, and would otherwise be available to a litigant through discovery requested from the facility. The confidentiality provisions of this subsection (d) shall also not apply to any judicial or administrative proceeding contesting the determination of the bureau of TennCare regarding the facility's quality component reimbursement.

71-5-1005. Bureau to seek federal approvals if necessary — Bureau authorized to adopt rules and regulations to implement part.

(a) The bureau shall seek necessary federal approval in the form of state plan amendments in order to implement this part, if it determined such approvals are necessary.

(b) The bureau is authorized to adopt rules and regulations necessary to implement this part or obtain approval of the state plan amendments. However, § 71-5-1413 shall be the exclusive authority for rulemaking by the bureau of TennCare regarding the initial rules regarding the acuity-based nursing home reimbursement system and any subsequent modifications to the nursing home reimbursement system.

71-5-1006. Penalties for late payment — Payment plan — Proceedings before board — Waiver of penalties — Fees in abeyance.

(a) If any part of any assessment fee imposed by § 71-5-1003 is not paid on or before the due date, a penalty of five percent (5%) of the amount due shall at once accrue and be added to such assessment fee. Thereafter, on the first day of each month during which any part of any assessment fee or any prior accrued penalty remains unpaid, an additional penalty of five percent (5%) of the then unpaid balance shall accrue and be added to such assessment fee or prior accrued penalty. Payment shall be deemed to have been made upon date of deposit in the United States mail.

(b) The bureau of TennCare may for good cause approve an alternative

payment plan, as long as full payment of the assessment fee plus any penalties are made. So long as the facility is current with payment of the current assessment and any authorized payment plan approved by the bureau of TennCare, no further penalties will be applied. Any payments after a penalty is assessed under this section shall be credited first to unpaid assessment amounts rather than to penalty amounts, beginning with the most delinquent installment. The bureau of TennCare may, as part of an approved payment plan, waive, in whole or in part, any penalty or interest imposed under this section. A waiver shall excuse the payment of that penalty or interest amount but shall not excuse payment of any assessments. Nothing in this section shall require the bureau of TennCare to agree to or approve any waiver under this section, and the waivers shall only be approved after the bureau's determination that there is good cause for the waiver.

(c)(1) If a nursing facility fails to pay a quarterly installment of the nursing home assessment fee within thirty (30) days of its due date or becomes or is in arrears for payment of its nursing home assessment fee on July 1, 2018, and does not have an approved payment plan for which payments are current, the bureau of TennCare shall direct its contracted managed care organizations (MCOs) to recover the full amount of the then-outstanding nursing home assessment fee and any applicable penalties and interest, which shall be accomplished through recoupment from payments made by the MCOs to nursing facilities to recover the full amount of the then-outstanding nursing home assessment fee and any related penalties and interest. TennCare MCOs shall remit promptly any of these recouped payments to the bureau of TennCare. The bureau of TennCare may recoup such amounts in as few or as many installment payments as it deems appropriate.

(2) If a nursing facility is more than ninety (90) days delinquent in paying any installment of its annual nursing home assessment fee; or becomes delinquent in any approved payment plan by more than ninety (90) days or fails to provide timely payment of any and all subsequent quarterly installments of its annual nursing home assessment fee while past due amounts are being recouped pursuant to subdivision (c)(1), the bureau of TennCare shall:

(A) Initiate a proceeding before the board for licensing health care facilities, in accordance with the Uniform Administrative Procedures Act, for the purpose of having the board indefinitely suspend admissions to the facility until all outstanding nursing home assessment fees and applicable penalties and interest have been repaid. Failure of a nursing facility to pay a quarterly installment of the nursing home assessment fee, or any penalties or interest required to be paid by this part, shall be considered by the board to be a license deficiency; and

(B) Initiate proceedings to terminate the nursing facility's TennCare identification number.

(3) Upon initiation of a proceeding before the board for licensing health-care facilities by the bureau of TennCare pursuant to subdivision (c)(2), the board shall suspend admissions to the facility after the bureau of TennCare meets the burden of proof required by the Uniform Administrative Procedures Act. The board shall have no discretion to impose any sanction or take any action other than that set out in this subdivision (c)(3) in the proceeding. Immediately following the full payment by the facility, or its successor, of all

then-outstanding assessment fees and any applicable penalties and interest, any suspension of admissions to the nursing facility imposed according to this section shall be automatically lifted without requiring further action by the board, so long as the full payment of then-outstanding amounts are made within the sixty (60) days immediately following the date of the suspension of admissions.

(4) On or after the sixtieth day following the date of suspension of admissions to the nursing facility if either the nursing facility fails to pay all then-outstanding nursing home assessment fees and any applicable penalties and interest accrued thereon or the nursing facility fails to be current on the terms of its payment plan if a plan is in place, then the bureau of TennCare shall initiate proceedings before the board for licensing healthcare facilities in accordance with the Uniform Administrative Procedures Act for the purpose of revoking the nursing facility's license. Upon initiation of a proceeding before the board by the bureau of TennCare pursuant to this subdivision (c)(4), the board shall revoke the nursing facility's license upon the bureau of TennCare meeting the burden of proof required by the Uniform Administrative Procedures Act. The board shall have no discretion to impose any sanction or take any action other than that set out in this subdivision (c)(4) in the proceeding.

(5) Revocation of either the nursing facility's license or the nursing facility's TennCare identification number shall not remedy, discharge, satisfy, or otherwise extinguish the nursing facility's liability for the then-outstanding nursing home assessment fees and any related penalties and interest.

(6) Upon revocation of the nursing facility's license or termination of the nursing facility's TennCare identification number, the nursing facility shall be required to reapply for a license, TennCare identification number, or both the license and the identification number, in order to provide services to the TennCare population. As a condition of reapplication, the nursing facility, or its successor shall pay in full all then-outstanding nursing home assessment fees, penalties, and interest.

(7) Notwithstanding this part, the bureau of TennCare is authorized to file a civil action against a covered nursing facility and its controlling person or persons to collect any nursing home assessment fees, penalties, and interest when such fees, penalties, and interest have been delinquent for more than ninety (90) days. The bureau of TennCare shall have the right to pursue a civil action pursuant to this subdivision (c)(7) simultaneously while pursuing actions in subdivisions (c)(2) and (4). The bureau of TennCare shall be entitled to receive, in addition to the nursing home assessment fees, penalties, and interest, all reasonable costs of litigation, including attorneys' fees and court costs, incurred by it in bringing a civil action under this subdivision (c)(7). Exclusive jurisdiction and venue for a civil action authorized in this subdivision (c)(7) shall be in the chancery court for Davidson County. For the purposes of this subdivision (c)(7), "controlling person or persons" means any and all natural persons or entities that own more than fifty percent (50%) of the nursing facility, or the natural person or persons, entity or entities that is or are the majority owner of the nursing facility if no owner owns more than fifty percent (50%) of the nursing facility.

(d) Unless otherwise agreed to by the bureau of TennCare and the nursing facility, full payment to the bureau of TennCare of any outstanding nursing

home assessment fees, and any applicable penalties and interest, shall be required for the continuation of the nursing facility's ongoing certification as a medicaid provider.

(e)(1) Any facility that is delinquent on the payment of its nursing home annual assessment fee as provided for in § 68-11-216 as of July 16, 2014, must establish a payment plan as provided for in this section.

(2) If a facility has established a payment plan concerning the delinquency that has been approved by the bureau of TennCare by August 15, 2014, all fees and penalties imposed by this section shall not be imposed so long as the facility is current with its payment plan, and no interest shall accrue on any balance unpaid as of July 1, 2014.

(3) If a facility has not established a payment plan approved by the bureau of TennCare by August 15, 2014, the bureau shall have the authority to recoup the amount of any supplemental transitional payments as provided for in § 71-5-1004(b)(2)(A)-(C) (now (c)(1)-(3)), and such amounts shall be applied to reduce the unpaid balance of any nursing home assessment fees owed by the facility.

(f) Any licensed facility that changes its licensure status to inactive status pursuant to § 68-11-206(b) shall be entitled to request that its nursing home annual assessment fee be held in abeyance until such time as the facility returns to active status, at which time the facility shall resume payment of the annual assessment fee that was held in abeyance. During the abeyance because of inactive status, the facility shall not be determined to be delinquent pursuant to this section. Nothing in this subsection (f) shall operate to excuse any licensee from the payment of its nursing home annual assessment fee.

71-5-1010. Termination of fee — Suspension of assessment.

(a) The nursing home annual assessment fee established by this part shall terminate on June 30, 2019.

(b) The assessment imposed by this part shall be suspended if the bureau attempts to utilize the money in the account for any use other than permitted by this part.

(c) Any assessment fee obligation imposed by § 71-5-1003 shall be suspended to the extent that, and for the period that receipt of the assessment fee by the state results in, a corresponding reduction in federal financial participation under Title XIX of the federal Social Security Act, compiled in 42 U.S.C. § 1396 et seq.

71-5-1413. Acuity-based reimbursement methodology for nursing facility services.

(a) The commissioner shall develop and implement an acuity-based reimbursement methodology for nursing facility services, based on an individualized assessment of need, as an alternative to the current cost-based nursing facility reimbursement system.

(b) The methodology may include, but is not limited to, the development of enhanced rates for specified chronic care services that may encourage the establishment of chronic care units that specialize in the care of persons with specified chronic care conditions, such as persons who are ventilator-dependent.

(c) [Deleted by 2018 amendment.]

(d) The comptroller of the treasury shall set the medicaid rates for nursing

facility services under the existing cost-based nursing facility reimbursement system and any acuity-based reimbursement system developed pursuant to this section and adopted by the bureau of TennCare in a rulemaking hearing in which interested persons may provide testimony under the Uniform Administrative Procedures Act, compiled in title 4, chapter 5. To the extent possible, any acuity-based reimbursement system shall be implemented in conjunction with the implementation of § 71-5-1407. Nothing in this section shall prevent TennCare from implementing rate adjustments as required pursuant to an act (including an annual appropriation act) of the general assembly that requires such adjustment. Nor shall TennCare be required to promulgate a rule to implement rate adjustments that are required pursuant to an act of the general assembly, unless such implementation requires a change in the underlying rate methodology.

(e) When both acuity and quality supplemental transition payments as described in § 71-5-1004 are transitioned into the medicaid per diem rates of the nursing home reimbursement system, the bureau of TennCare is authorized to adopt rules necessary to implement a new nursing home reimbursement system, subject to the following limitations:

(1) Any rules promulgated by the bureau of TennCare under this subsection (e) shall be developed in consultation with the comptroller of the treasury and with the Tennessee Health Care Association; and

(2) Any rules or regulations shall be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5; provided, however, that the bureau of TennCare shall not promulgate emergency rules under this subsection (e) as authorized in § 4-5-208.

(f) Under any TennCare dual-eligible demonstration project, skilled nursing facilities shall be reimbursed for medicare skilled nursing facility services in an amount that is consistent with the net payment they would have received for the service absent such demonstration in a medicare fee-for-service system, taking together the primary payment by medicare and the secondary payment of cost sharing by medicaid, in accordance with the institutional crossover payment methodology set forth in the medicaid state plan. Nursing facilities participating in any TennCare dual-eligible demonstration project shall be reimbursed for medicaid nursing facility services in a manner that is consistent with the methodology for medicaid nursing facility services delivered outside the demonstration. Nothing in this section shall prevent a skilled nursing facility or nursing facility from agreeing, at its own discretion, to contract with an MCO under any alternative payment methodology including, but not limited to, shared risk or savings arrangements or quality incentive payments that may be offered under such dual demonstration in order to promote evidence-based best practices and to engage the facility in key quality improvements, such as reduced avoidable hospital admissions and reduced hospital readmissions.

71-5-1501. Short title.

(a) This part shall be known and may be cited as the "Ground Ambulance Service Provider Assessment Act."

(b) The intent of this part is to enhance EMS services and improve access to emergency medical pre-hospital care in this state.

71-5-1502. Part definitions.

As used in this part:

(1) "Ambulance provider" means a public or private ground-based ambulatory service, other than an ambulance service based on federal property, that bills for transports and has a base of operations within the state;

(2) "Assessment" means the medicaid ambulance provider assessment established by this part;

(3) "Bureau" means the bureau of TennCare;

(4) "Medicaid transport" means ground ambulance services specified in the Healthcare Common Procedure Coding System (HCPCS) under codes A0225, A0426, A0427, A0428, A0429, A0433, and A0434, and paid by medicaid, as recorded by the managed care organization under contract to the bureau;

(5) "Net operating revenue" means all revenues, regardless of payer source, collected by ambulance providers for patient services excluding charity care or any other uncompensated patient services, in accordance with 42 CFR 433.68;

(6) "Office of emergency medical services" means the office of emergency medical services within the department of health; and

(7) "Total transports" means all transports reported during the base period by a provider to the office of emergency medical services.

71-5-1503. Annual coverage assessment on covered hospitals.

(a) An ambulance provider shall pay an assessment to the bureau:

(1) In accordance with this part;

(2) In the amount designated in § 71-5-1504;

(3) Quarterly, on a day determined by the bureau; and

(4) No more than thirty (30) business days after the day on which the bureau issues the ambulance provider notice of the assessment.

(b) The bureau shall:

(1) Determine the standards and procedures used to implement and enforce this part;

(2) Collect the assessment described in subsection (a); and

(3) Transfer assessment proceeds to the state treasurer for deposit into the ambulance service assessment revenue fund created in § 71-5-1507.

(c) An ambulance provider shall not increase charges or add a surcharge to ground transports based on, or as a result of, the assessment described in subsection (a).

71-5-1504. Amount of annual coverage assessment — Payment — Penalty — Suspension of payments — Civil action.

(a) The bureau shall calculate a uniform assessment per ground transport for each ambulance provider pursuant to subsection (b).

(b) Except as otherwise provided in subsection (c), each quarter of the state fiscal year, the assessment due from each ambulance provider will equal the rate set in subsection (e) multiplied by each provider's transport totals reported from the most recent available completed quarter of transport data recorded by the office of emergency medical services. Ambulance providers will be required to submit a quarterly reporting of all transports to the office of emergency medical services in a manner determined by the office of emergency

medical services and the bureau.

(c) In the event that quarterly transport data is not adequate or available for the calculation of assessments, the bureau shall use total transports submitted to the office of emergency medical services for calendar year 2017. The adequacy and availability of the data shall be determined solely by the bureau.

(d) The bureau shall apply any annual changes to the assessment rate, calculated as described in subsection (b), uniformly to all assessed ambulance providers.

(e) The assessment shall generate the lesser of:

(1) Nine dollars and nine cents ($9.09) per each medicaid transport; or

(2) In the event that nine dollars and nine cents ($9.09) per transport causes the statewide assessment to exceed six percent (6%) of statewide net operating revenues, the per transport assessment will equal an amount that shall generate six percent (6%) of statewide net operating revenues.

(f) No more than ninety (90) days after the end of each calendar year, each ambulance provider shall submit revenue reports to the bureau for that entity's most recent fiscal year that ended at least ninety (90) days before this due date.

(g) The comptroller is granted audit authority to test the accuracy of any and all net patient service revenue reports submitted to the bureau for the purposes of this assessment. The bureau is authorized to impose penalties on providers that do not submit revenue reports, including, but not limited to, fines determined by the bureau.

71-5-1505. Maintenance of coverage trust fund.

(a) Upon approval by the centers for medicare and medicaid services of the assessment imposed by this part, the bureau shall reimburse each ambulance provider with qualifying ground ambulance service medicaid transports in an amount calculated by the bureau. This calculation will be determined by the bureau's estimate of assessment collections and the resulting available program funding, less an annual amount of seventy-five thousand dollars ($75,000) to offset medicaid administration expenses and an annual amount of eighty thousand dollars ($80,000) to offset administrative expenses for the Tennessee Ambulance Services Association. If less than these amounts is needed to offset the administrative expenses, the bureau shall only deduct the amount needed. The bureau's estimate of assessment collections and the resulting program funding, netting out any amounts for offset administrative expenses, must be divided by the bureau's projected number of medicaid transports. The resulting amounts will be the additional payment amount made for each medicaid transport reported by the MCO's on a quarterly basis. This amount may change from quarter to quarter.

(b) The bureau shall disburse supplemental payments to ambulance providers based on medicaid transports from the base period as determined by the bureau and as authorized by the centers for medicare and medicaid services.

71-5-1506. Expiration.

(a) The bureau has the authority to create policy measures that ensure the enforcement and compliance of this part. The bureau shall require an ambulance provider that fails to pay an assessment due under this part to pay the

bureau, in addition to the assessment, a penalty determined by the bureau. Enforcement measures determined by the bureau shall include, but not be limited to, recoupments, withholds of future payments, and loss of medicaid ID.

(b) The bureau shall require ambulance providers to submit quarterly transport count data for all transports to the office of emergency services within thirty (30) days of the end of the quarter.

71-5-1507. Audit.

(a) There is created a special agency account in the state general fund to be known as the "ambulance service assessment revenue fund," referred to in this part as the "fund." The fund shall continue without interruptions and shall be operated in accordance with this section.

(b) Unless otherwise specified in this part, revenue generated from the following sources must be deposited in the fund:

(1) Assessments collected by the bureau under this part;

(2) Penalties collected by the bureau under this part;

(3) Donations to the fund from private sources; and

(4) Investment earnings credited to the fund.

(c) Any fund balance remaining unexpended at the end of a fiscal year carries forward into the subsequent fiscal year and shall not be diverted to the general fund or any other public fund.

(d) Interest accruing on investments and deposits of the fund carries forward into the subsequent fiscal year and shall not be diverted to the general fund or any other public fund.

(e) The state treasurer shall invest the moneys in the fund in accordance with the provisions of § 9-4-603. The bureau shall administer the funds.

(f) Moneys in the fund must not be diverted to the general fund or any other public fund or any other third party, and moneys in the fund may only be used to:

(1) Create supplemental or directed payments for ground ambulance providers; and

(2) Reimburse the amounts designated in § 71-5-1505 for the purpose of administrative expenses.

(g) In the event that this part is rendered invalid and void:

(1) To the extent federal matching is not reduced due to the impermissibility of the assessments, the bureau shall disburse pursuant to subsection (f) the moneys remaining in the fund that were derived from assessments imposed by this part and deposited before the occurrence of the invalidating event; and

(2) Following disbursement of moneys in the fund pursuant to subdivision (g)(1), the bureau shall refund any remaining moneys to each ambulance provider in proportion to the amount paid by the respective provider during the most recently completed quarterly payment period.

71-5-1508. Implementation of part — Termination of ground ambulance provider assessment.

(a) The assessment in this part shall not be implemented until after the bureau receives notice from the centers for medicare and medicaid services

that approval for the assessment is granted.

(b) The bureau shall implement this part to the extent that it is not inconsistent with the TennCare II federal waiver or any successor federal waiver.

(c) Within ninety (90) days after the date this part becomes law, the bureau shall determine whether an amendment to the TennCare II waiver or any successor federal waiver is required to implement this part. If the bureau determines that an amendment to the TennCare II federal waiver or any successor federal waiver is necessary, the bureau is authorized to seek any necessary waiver amendment and the assessment in this part must not take effect until the waiver amendment is approved.

(d) The ground ambulance provider assessment established by this part terminates on June 30, 2019.

71-5-1509. Promulgation of rules.

The bureau is authorized to promulgate rules to effectuate the purposes of this part. The rules must be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

71-5-1605. Maintenance of coverage trust fund — Use of monies. [Expired pursuant to § 71-5-1606, effective June 30, 2018.]

71-5-2001. Short title. [Effective until June 30, 2019.]

This part shall be known and may be cited as the "Annual Coverage Assessment Act of 2018."

71-5-2002. Part definitions. [Effective until June 30, 2019.]

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

(1) "Annual coverage assessment" means the annual assessment imposed on covered hospitals as set forth in this part;

(2) "Annual coverage assessment base" means a covered hospital's net patient revenue as shown in its medicare cost report for its fiscal year that ended during calendar year 2008, on file with CMS as of September 30, 2009, subject to the following qualifications:

(A) If a covered hospital does not have a full twelve-month medicare cost report for 2008 on file with CMS but has a full twelve-month cost report for a subsequent year, the first full twelve-month medicare cost report for a year following 2008 on file with CMS shall be the annual coverage assessment base;

(B) If a covered hospital was first licensed in 2014 or later and did not replace an existing hospital, and if the hospital has a medicare cost report on file with CMS, the hospital's initial cost report on file with CMS shall be the base for the hospital assessment. If the hospital does not have an initial cost report on file with CMS but does have a complete twelve-month joint annual report filed with the department of health, the net patient revenue from the twelve-month joint annual report shall be the annual coverage assessment base. If the hospital does not have a medicare cost report or a full twelve-month joint annual report filed with the department of health, the annual coverage assessment base is the covered hospital's

projected net patient revenue for its first full year of operation as shown in its certificate of need application filed with the health services and development agency;

(C) If a covered hospital was first licensed in 2014 or later and replaced an existing hospital, the annual coverage assessment base shall be the replacement hospital's initial medicare cost report on file with CMS. If the hospital does not have a medicare cost report on file with CMS, such hospital's annual coverage assessment base shall be either the predecessor hospital's net patient revenue as shown in its medicare cost report for its fiscal year that ended during calendar year 2008, or, if the predecessor hospital does not have a 2008 medicare cost report, the cost report for the first fiscal year following 2008 on file with CMS;

(D) If a covered hospital is not required to file an annual medicare cost report with CMS, then the hospital's annual coverage assessment base shall be its net patient revenue for the fiscal year ending during calendar year 2008 or the first fiscal year that the hospital was in operation after 2008 as shown in the covered hospital's joint annual report filed with the department of health; and

(E) If a covered hospital's fiscal year 2008 medicare cost report is not contained in any of the CMS healthcare cost report information system files and if the hospital does not meet any of the other qualifications listed in subdivisions (2)(A)-(D), then the hospital shall submit a copy of the hospital's 2008 medicare cost report to the bureau in order to allow for the determination of the hospital's net patient revenue for the state fiscal year 2018-2019 annual coverage assessment;

(3) "Bureau" means the bureau of TennCare;

(4) "CMS" means the federal centers for medicare and medicaid services;

(5) "Controlling person" means a person who, by ownership, contract, or otherwise, has the authority to control the business operations of a covered hospital. Indirect or direct ownership of ten percent (10%) or more of a covered hospital shall constitute control;

(6) "Covered hospital" means a hospital licensed under title 33 or title 68, as of July 1, 2018, except an excluded hospital;

(7) "Excluded hospital" means:

(A) A hospital that has been designated by CMS as a critical access hospital as of July 1, 2018;

(B) A mental health hospital owned by this state;

(C) A hospital providing primarily rehabilitative or long-term acute care services;

(D) A children's research hospital that does not charge patients for services beyond that reimbursed by third-party payers; and

(E) A hospital that is determined by the bureau as eligible to certify public expenditures for the purpose of securing federal medical assistance percentage payments;

(8) "Medicare cost report" means CMS-2552-96 or a subsequent form adopted by CMS for medicare cost reporting, the cost report for electronic filing of hospitals, for the period applicable as set forth in this section; and

(9) "Net patient revenue" means the amount calculated in accordance with generally accepted accounting principles for hospitals that is reported on Worksheet G-3, Column 1, Line 3, of the 2008 medicare cost report excluding long-term care inpatient ancillary revenues, or, in the case of a

hospital that did not file a 2008 medicare cost report, comparable data from the first complete cost report filed after 2008 by such hospital.

71-5-2003. Annual coverage assessment on covered hospitals. [Effective until June 30, 2019.]

(a) There is imposed on each covered hospital licensed as of July 1, 2018, an annual coverage assessment for fiscal year (FY) 2018-2019 as set forth in this part.

(b) The annual coverage assessment imposed by this part shall not be effective and validly imposed until the bureau has provided the Tennessee Hospital Association with written notice that includes:

(1) A determination from CMS that the annual coverage assessment is a permissible source of revenue that shall not adversely affect the amount of federal financial participation in the TennCare program;

(2) Either:

(A) Approval from CMS for the distribution of the full amount of directed payments to hospitals to offset unreimbursed TennCare costs as defined in § 71-5-2005(d)(2); provided, that no assessment installment shall be collected prior to the distribution of the installment of such directed payments;

(B) Approval from CMS for the distribution of the full amount of funds for uncompensated hospital costs set forth in the extension of the section 1115 demonstration project effective December 16, 2016; provided, that the bureau shall prioritize the distribution of funds in the same manner as set forth in § 71-5-2004(i)(2)(A)(ii); or

(C) The rules proposed by the bureau pursuant to § 71-5-2004(i)(2); and

(3) Confirmation that all contracts between hospitals and managed care organizations comply with the hospital rate variation corridors set forth in § 71-5-161.

(c) The general assembly intends that the proceeds of the annual coverage assessment not be used as a justification to reduce or eliminate state funding to the TennCare program. The annual coverage assessment shall not be effective and validly imposed if the coverage or the amount of revenue available for expenditure by the TennCare program in FY 2018-2019 is less than:

(1) The governor's FY 2018-2019 recommended budget level; plus

(2) Additional appropriations made by the general assembly to the TennCare program for FY 2018-2019, except to the extent new federal funding is available to replace funds that are appropriated as described in subdivision (c)(1) and that are above the amount that the state receives from CMS under the regular federal matching assistance percentage.

(d)(1)(A) The general assembly intends that the proceeds of the annual coverage assessment not be used as justification for any TennCare managed care organization to implement across-the-board rate reductions to negotiated rates with covered or excluded hospitals or physicians in existence on July 1, 2018. For those rates in effect on July 1, 2018, the bureau shall include provisions in the managed care organizations' contractor risk agreements that prohibit the managed care organizations from implementing across-the-board rate reductions to covered or ex-

cluded network hospitals or physicians either by category or by type of provider. The requirements of the preceding sentence shall also apply to services or settings of care that are ancillary to the primary license of a covered or excluded hospital or physician, but shall not apply to reductions in benefits or reimbursement for such ancillary services if the reductions:

(i) Are different from those items being funded in § 71-5-2005(d); and

(ii) Have been communicated in advance of implementation to the general assembly and the Tennessee Hospital Association.

(B)(i) For purposes of this subsection (d), "services or settings of care that are ancillary to the primary license of a covered or excluded hospital or physician" includes all services where the physician or covered or excluded hospital, including a wholly owned subsidiary or controlled affiliate of a covered or excluded hospital or hospital system, holds more than a fifty percent (50%) controlling interest in such ancillary services or settings of care, but shall not include any other ancillary services or settings of care. For across-the-board rate reductions to ancillary services or settings of care, the bureau shall include appropriate requirements for notice to providers in the managed care organizations' contractor risk agreements.

(ii) For purposes of this subsection (d), "services or settings of care that are ancillary" means, but is not limited to, ambulatory surgical facilities, free standing emergency departments, outpatient treatment clinics or imaging centers, dialysis centers, home health and related services, home infusion therapy services, outpatient rehabilitation, or skilled nursing services.

(iii) For purposes of this subsection (d), "physician" includes a physician licensed under title 63, chapter 6 or chapter 9, and a group practice of physicians that hold a contract with a managed care organization.

(2) This subsection (d) does not preclude good faith negotiations between managed care organizations and covered or excluded hospitals, hospital systems, and physicians on an individualized, case-by-case basis, nor is this subsection (d) intended by the general assembly to serve as justification for managed care organizations in this state, covered or excluded hospitals, hospital systems, or physicians to unreasonably deny any party the ability to enter into such individualized, case-by-case good faith negotiations. Such good faith negotiation necessarily implies mutual cooperation between the negotiating parties and may include, but is not limited to, the right to terminate contractual agreements, the ability to modify negotiated rates, pricing, or units of service, the ability to alter payment methodologies, and the ability to enforce existing managed care techniques or to implement new managed care techniques.

(3) This subsection (d) shall not preclude the full implementation of the requirements set forth in § 71-5-161.

(4) Notwithstanding this subsection (d), if CMS mandates a TennCare program change or a change is required by state or federal law that impacts rates, and that change is required to be implemented by the managed care organizations in accordance with their contracts, or if the annual coverage assessment becomes invalid, then nothing in this part shall prohibit the managed care organizations from implementing any rate changes as may be mandated by the bureau or by state or federal law.

71-5-2004. Amount of annual coverage assessment — Payment — Penalty —Suspension of payments — Civil action. [Effective until June 30, 2019.]

(a) The annual coverage assessment established for this part shall be four and fifty-two hundredths percent (4.52%) of a covered hospital's annual coverage assessment base.

(b) The annual coverage assessment shall be paid in installments pursuant to this subsection (b) if the requirements of § 71-5-2003(b) have been satisfied. The bureau shall establish a schedule of four (4) equal installment payments spread as evenly as possible throughout FY 2018-2019 with the first installment payment due either fifteen (15) days after the first FY 2018-2019 directed payments approved by CMS to offset unreimbursed TennCare costs have been made to hospitals, or if CMS does not approve directed payments to hospitals to offset unreimbursed TennCare costs, then fifteen (15) days after the first payment to hospitals under § 71-5-2005(d)(3).

(c) To facilitate collection of the annual coverage assessment, the bureau shall send each covered hospital, at least thirty (30) days in advance of each installment payment due date, a notice of payment along with a return form developed by the bureau. Failure of a covered hospital to receive a notice and return form, however, shall not relieve a covered hospital from the obligation of timely payment. The bureau shall also post the return form on its website.

(d) Failure of a covered hospital to pay an installment of the annual coverage assessment, when due, shall result in an imposition of a penalty of five hundred dollars ($500) per day until such installment is paid in full. The bureau at its discretion may waive the penalty in the event the hospital establishes that it mailed or electronically transferred payment to the state on or before the date the payment was due.

(e) If a covered hospital ceases to operate after July 1, 2018, and before July 1, 2019, the hospital's total annual coverage assessment shall be equal to its annual coverage assessment base multiplied by a fraction, the denominator of which is the number of calendar days from July 1, 2018, until July 1, 2019, and the numerator of which is the number of days from July 1, 2018, until the date the board for licensing healthcare facilities has recorded as the date that the hospital ceased operation.

(f) If a covered hospital ceases operation prior to payment of its full annual coverage assessment, then the person or persons controlling the hospital as of the date the hospital ceased operation shall be jointly and severally responsible for any remaining annual coverage assessment installments and unpaid penalties associated with previous late payments.

(g) If a covered hospital fails to pay an installment of the annual coverage assessment within thirty (30) days of its due date, the bureau shall suspend the payments to the hospital as required by § 71-5-2005(d)(2) or (3) until the installment is paid and report such failure to the department that licenses the covered hospital. Notwithstanding any other law, failure of a covered hospital to pay an installment of the annual coverage assessment or any refund required by this part shall be considered a license deficiency and grounds for disciplinary action as set forth in the statutes and rules under which the covered hospital is licensed.

(h) In addition to the action required by subsection (g), the bureau is authorized to file a civil action against a covered hospital and its controlling

person or persons to collect delinquent annual coverage assessment installments, late penalties, and refund obligations established by this part. Exclusive jurisdiction and venue for a civil action authorized by this subsection (h) shall be in the chancery court for Davidson County.

(i)(1) If any federal agency with jurisdiction over this annual coverage assessment determines that the annual coverage assessment is not a valid source of revenue or if there is a reduction of the coverage and funding of the TennCare program contrary to § 71-5-2003(c), or if the requirements of §§ 71-5-161 and 71-5-2003(b) are not fully satisfied, or if one (1) or more managed care organizations impose rate reductions contrary to § 71-5-2003(d), then:

(A) No subsequent installments of the annual coverage assessment shall be due and payable; and

(B) No further payments shall be paid to hospitals pursuant to § 71-5-2005(d)(2) or (3) after the date of such event.

(2)(A) Notwithstanding this part, if CMS discontinues approval of or otherwise fails to approve the full amount of directed payments or waiver supplemental hospital pool payments to hospitals to offset losses incurred from providing services to TennCare enrollees as authorized under § 71-5-2005(d), then the bureau shall suspend any payments from or to covered hospitals otherwise required by this part and shall promulgate rules that:

(i) Establish the methodology for determining the amounts, categories, and times of payments to hospitals, if any, instead of the payments that otherwise would have been paid under § 71-5-2005(d)(3) if approved by CMS;

(ii) Prioritize payments to hospitals as set forth in § 71-5-2005(d)(3);

(iii) Identify the benefits and services for which funds will be available in order to mitigate reductions or eliminations that otherwise would be imposed in the absence of the coverage assessment;

(iv) Determine the amount and timing of payments for benefits and services identified under subdivisions (i)(2)(A)(ii) and (iii) as appropriate;

(v) Reinstitute payments from or to covered hospitals as appropriate; and

(vi) Otherwise achieve the goals of this subdivision (i)(2).

(B) The rules adopted under this subdivision (i)(2) shall, to the extent possible, achieve the goals of:

(i) Maximizing the amount of federal matching funds available for the TennCare program; and

(ii) Minimizing the variation between payments hospitals will receive under the rules as compared to payments hospitals would have received if CMS had approved the total payments described in § 71-5-2005(d).

(C) Notwithstanding any other law, the bureau is authorized to exercise emergency rulemaking authority to the extent necessary to meet the objectives of this subdivision (i)(2).

(3) Upon occurrence of any of the events set forth in subdivision (i)(1) or (i)(2), the bureau shall then have authority to make necessary changes to the TennCare budget to account for the loss of annual coverage assessment revenue.

(j) A covered hospital or an association representing covered hospitals, the membership of which includes thirty (30) or more covered hospitals, shall have

the right to file a petition for declaratory order pursuant to § 4-5-223 to determine if there has been a failure to meet any of the requirements of this part. A covered hospital may not increase charges or add a surcharge based on, or as a result of, the annual coverage assessment.

71-5-2005. Maintenance of coverage trust fund. [Effective until June 30, 2019.]

(a) The funds generated as a result of this part shall be deposited in the maintenance of coverage trust fund created by § 71-5-160, the existence of which is continued as provided in subsection (b). The fund shall not be used to replace any monies otherwise appropriated to the TennCare program by the general assembly or to replace any monies appropriated outside of the TennCare program.

(b) The maintenance of coverage trust fund shall continue without interruption and shall be operated in accordance with § 71-5-160 and this section.

(c) The maintenance of coverage trust fund shall consist of:

(1) The balance of the trust fund remaining as of June 30, 2018;

(2) All annual coverage assessments received by the bureau;

(3) Investment earnings credited to the assets of the maintenance of coverage trust fund; and

(4) Penalties paid by covered hospitals for late payment of assessment installments as described in § 71-5-2004(d).

(d) Monies credited or deposited to the maintenance of coverage trust fund, together with all federal matching funds, shall be available to and used by the bureau only for expenditures in the TennCare program and shall include the following purposes:

(1) Expenditure for benefits and services under the TennCare program, including those that would have been subject to reduction or elimination from TennCare funding for FY 2018-2019, except for the availability of one-time funding for that year only, as follows:

(A) Replacement of across-the-board reductions in covered and excluded hospital and professional reimbursement rates described in the governor's recommended budgets since FY 2011;

(B) Maintenance of essential access hospital payments, which may be reclassified to a virtual DSH payment or unreimbursed charity care pool payment in accordance with, and as those payments are defined in, the TennCare 1115 demonstration waiver from the centers for medicare and medicaid services, to the maximum allowed by CMS under the TennCare waiver of at least one hundred million dollars ($100,000,000);

(C) Maintenance of disproportionate share hospital payments, which may be reclassified to a virtual DSH payment or unreimbursed charity care pool payment in accordance with, and as those payments are defined in, the TennCare 1115 demonstration waiver from the centers for medicare and medicaid services, to the maximum allowed by CMS under the TennCare waiver of at least eighty-one million six hundred thousand dollars ($81,600,000);

(D) Maintenance of payments to critical access hospitals, which may be reclassified to a virtual DSH payment or unreimbursed charity care pool payment in accordance with, and as those payments are defined in, the TennCare 1115 demonstration waiver from the centers for medicare and medicaid services, to achieve reimbursement of full cost of benefits

provided to TennCare enrollees up to ten million dollars ($10,000,000);

(E) Maintenance of payments for graduate medical education of at least fifty million dollars ($50,000,000);

(F) Maintenance of reimbursement for medicare part A crossover claims at the lesser of one hundred percent (100%) of medicare allowable or the billed amount;

(G) Avoidance of any coverage limitations relative to the number of hospital inpatient days per year or the annual cost of inpatient services for a TennCare enrollee;

(H) Avoidance of any coverage limitations relative to the number of nonemergency outpatient visits per year for a TennCare enrollee;

(I) Avoidance of any coverage limitations relative to the number of physician office visits per year for a TennCare enrollee;

(J) Avoidance of coverage limitations relative to the number of laboratory and diagnostic imaging encounters per year for a TennCare enrollee;

(K) Maintenance of coverage for occupational therapy, physical therapy, and speech therapy services;

(L) In the total amount of five hundred seventy-three thousand two hundred dollars ($573,200) to maintain reimbursement at the same emergency care rate as in FY 2017-2018 for nonemergent care to children twelve (12) to twenty-four (24) months of age;

(M) In the total amount of two million forty-eight thousand five hundred dollars ($2,048,500) to the bureau to offset the elimination of the provision in the TennCare managed care contractor risk agreements for hospitals as follows:

CRA 2.12.9.60 — Specify in applicable provider agreements that all providers who participate in the federal 340B program give TennCare MCOs the benefit of 340B pricing; and

(N) In the total amount of one hundred twenty-five thousand dollars ($125,000) to offset a portion of the hospital cost of providing admissions, discharge, and transfer (ADT) messages to the TennCare bureau to support the TennCare Patient Centered Medical Home initiative;

(2) Directed payments to hospitals to offset unreimbursed costs incurred by covered hospitals in providing services to TennCare patients, as approved by CMS. "Unreimbursed TennCare costs" means the excess of TennCare cost over TennCare net revenue. TennCare charges and net revenue are calculated using data from Schedule E, items (A)(1)(e) and (A)(1)(f) from the hospital's 2016 joint annual report (JAR) filed with the department of health. "TennCare costs" means the product of a facility's cost-to-charge ratio, calculated as B(3) divided by A(3)(e) from Schedule E of the 2016 JAR, times TennCare charges. The amount of the directed payment to covered hospitals shall be no less than forty-six and eighty-nine hundredths percent (46.89%) of unreimbursed TennCare cost for all hospitals licensed by the state that reported unreimbursed TennCare cost on the 2016 joint annual report (JAR), excluding state-owned hospitals. If directed payments to hospitals authorized by CMS do not fully cover the amount of the hospital unreimbursed TennCare costs required to be reimbursed by this subdivision (d)(2), then the remaining balance in the trust fund shall be used to offset the remaining unreimbursed TennCare costs required to be reimbursed by this section;

(3)(A) In the event CMS does not approve directed payments to hospitals to offset unreimbursed costs incurred in serving TennCare patients, but

instead approves hospital supplemental pools in the TennCare waiver for such purpose, then payments required by this subdivision (d)(3) shall be made from the allocated pools to covered hospitals to offset losses incurred in providing services to TennCare enrollees as set forth in this subdivision (d)(3) as first priority before any other supplemental payments authorized in the TennCare waiver are distributed;

(B) Each covered hospital shall be entitled to payments for FY 2018-2019 of a portion of its unreimbursed cost of providing services to TennCare enrollees. "Unreimbursed TennCare costs" means the excess of TennCare cost over TennCare net revenue. TennCare charges and net revenue are calculated using data from Schedule E, items (A)(1)(e) and (A)(1)(f) from the hospital's 2016 joint annual report (JAR) filed with the department of health. "TennCare costs" means the product of a facility's cost-to-charge ratio, calculated as B(3) divided by A(3)(e) from Schedule E of the 2016 JAR, times TennCare charges. The amount of the payment to covered hospitals shall be no less than forty-six and eighty-nine hundredths percent (46.89%) of unreimbursed TennCare costs for all hospitals licensed by the state that reported unreimbursed TennCare costs on the 2016 joint annual report (JAR), excluding state-owned hospitals;

(C) If funds are remaining for supplemental pools in the TennCare waiver authority after payments to covered hospitals for uncompensated costs of serving TennCare patients as required in this subdivision (d)(3), the bureau shall allocate the remaining supplemental payments approved by CMS across the following categories: payments to essential access hospitals, payments to hospitals based on their status as medicaid disproportionate share hospitals, and payment to the state for certified public expenditures recognized by CMS;

(D) The payments required by this subdivision (d)(3) shall be made in four (4) equal installments. Each installment payment shall be made by the third business day of four (4) successive periods within 2018-2019, with the first period to be the 15th day of the month in which the annual coverage assessment is first levied in accordance with § 71-5-2004. The bureau shall provide to the Tennessee Hospital Association a schedule showing the payments to each hospital at least seven (7) days in advance of the payments; and

(E) The payments required by this subdivision (d)(3) may be made by the bureau directly to the hospitals, or the bureau may transfer the funds to one (1) or more managed care organizations with the direction to make payments to hospitals as required by this subsection (d). The payments to a hospital pursuant to this subdivision (d)(3) shall not be considered part of the reimbursement to which a hospital is entitled under its contract with a TennCare managed care organization;

(4) Refunds to covered hospitals based on the payment of annual coverage assessments or penalties to the bureau through error, mistake, or a determination that the annual coverage assessment was invalidly imposed; and

(5) Payments authorized under rules promulgated by the bureau pursuant to § 71-5-2004(i)(2).

(e) If a hospital closes or changes status from a covered hospital to an excluded hospital and consequently reduces the amount of the annual coverage assessment to the extent that the amount is no longer sufficient to cover the total cost of the items included in subsection (d), the payments for these items

may be adjusted by an amount equal to the shortfall, including the federal financial participation. The items to be adjusted and the amounts of the adjustments shall be determined by the bureau in consultation with hospitals.

(f) The bureau shall modify the contracts with TennCare managed care organizations and otherwise take action necessary to assure the use and application of the assets of the maintenance of coverage trust fund, as described in subsection (d).

(g) The bureau shall submit requests to CMS to modify the medicaid state plan, the contractor risk agreements, or the TennCare II Section 1115 demonstration project, as necessary, to implement the requirements of this part.

(h) At quarterly intervals beginning September 1, 2018, the bureau shall submit a report to the finance, ways and means committees of the senate and the house of representatives, to the health and welfare committee of the senate, and to the health committee of the house of representatives, which report shall include:

(1) The status, if applicable, of the determination and approval by CMS set forth in § 71-5-2003(b) of the annual coverage assessment;

(2) The balance of funds in the maintenance of coverage trust fund; and

(3) The extent to which the maintenance of coverage trust fund has been used to carry out this part.

(i) No part of the maintenance of coverage trust fund shall be diverted to the general fund or used for any purpose other than as set forth in this part.

71-5-2006. Expiration. [Effective until June 30, 2019.]

This part shall expire on June 30, 2019; provided, however, that the following rights and obligations shall survive such expiration:

(1) The authority of the bureau to impose late payment penalties and to collect unpaid annual coverage assessments and required refunds;

(2) The rights of a covered hospital or an association of covered hospitals to file a petition for declaratory order to determine compliance with this part;

(3) The existence of the maintenance of coverage trust fund and the obligation of the bureau to use and apply the assets of the maintenance of coverage trust fund; and

(4) The obligation of the bureau to implement and maintain the requirements of § 71-5-161.

71-5-2007. Audit. [Effective until June 30, 2019.]

The comptroller of the treasury is authorized to audit the expenditure of funds pursuant to this part from the maintenance of coverage trust fund. At the discretion of the comptroller of the treasury, the audit may be prepared by a certified public accountant, a public accountant, or by the department of audit. Notwithstanding § 71-5-2005, the bureau of TennCare and the maintenance of coverage trust fund must bear the full costs of the audit

71-6-110. Violation of duty to report. [Effective until January 1, 2019. See version effective on January 1, 2019.]

Any person who knowingly fails to make a report required by this chapter commits a Class A misdemeanor.

71-6-110. Violation of duty to report. [Effective on January 1, 2019. See version effective until January 1, 2019.]

Any person who fails to make reasonable efforts to make a report required by this chapter or § 39-15-509(a) commits a Class A misdemeanor.

71-6-117. Offense of abuse or neglect of adult — Placement on registry — Fine. [Effective until January 1, 2019. See version effective on January 1, 2019.]

(a) It is an offense for any person to knowingly, other than by accidental means, abuse or neglect any adult within the meaning of this part.

(b) A violation of this section is a Class D felony.

(c)(1) Following a conviction for a violation of this section or § 71-6-119, the clerk of the court shall notify the department of health of the conviction by sending a copy of the judgment in the manner set forth in § 68-11-1003 for inclusion 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 (c)(1), the department shall place the person or persons convicted on the registry of persons who have abused, neglected, or misappropriated the property of a vulnerable individual as provided in § 68-11-1003(c).

(3) Upon entry of the information in the registry, the department 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 commissioner, or the commissioner'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.

(d) In addition to any other punishment that may be imposed for a violation of this section, if, as determined by the court, the victim was sixty (60) years of age or older, then the court shall impose a fine in an amount between fifty dollars ($50.00) and 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 may be subject to appropriation by the general assembly for the purpose of funding services and programs for senior citizens.

71-6-117. Offense of abuse of adult — Placement on registry — Fine. [Effective on January 1, 2019. See version effective until January 1, 2019.]

(a) It is an offense for any person to knowingly, other than by accidental means, abuse any adult within the meaning of this part.

(b) A violation of this section is a Class D felony.

(c)(1) Following a conviction for a violation of this section or § 71-6-119, the clerk of the court shall notify the department of health of the conviction by sending a copy of the judgment in the manner set forth in § 68-11-1003 for inclusion 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 (c)(1), the department shall place the person or persons convicted on the registry of persons who have abused or misappropriated the property of a vulnerable individual as provided in § 68-11-1003(c).

(3) Upon entry of the information in the registry, the department 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 commissioner, or the commissioner'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.

(d) In addition to any other punishment that may be imposed for a violation of this section, if, as determined by the court, the victim was sixty (60) years of age or older, then the court shall impose a fine in an amount between fifty dollars ($50.00) and 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 may be subject to appropriation by the general assembly for the purpose of funding services and programs for senior citizens.

71-6-118. Confidentiality of information, reports and proceedings — Penalties. [Effective until January 1, 2019. See version effective on January 1, 2019.]

(a) The identity of a person who reports abuse, neglect, or exploitation as required under this part is confidential and may not be revealed unless a court with jurisdiction under this part so orders for good cause shown.

(b) Except as otherwise provided in this part, it is unlawful for any person, except for purposes directly connected with the administration of this part, to disclose, receive, make use of, authorize or knowingly permit, participate, or acquiesce in the use of any list or the name of, or any information concerning, persons receiving services pursuant to this part, or any information concerning a report or investigation of a report of abuse, neglect, or exploitation under this part, directly or indirectly derived from the records, papers, files or communications of the department of human services or divisions thereof acquired in the course of the performance of official duties.

(c)(1) When necessary to protect adults in a health care facility licensed by any state agency, such information, reports, and investigations may be disclosed to any agency providing licensing or regulation for that facility;

however, the information, reports, and investigations shall retain the protection of subsection (b) when disclosed to such agency and may not be disclosed to, or used by, any other person.

(2) Notwithstanding subsections (a) and (b), the department may report to law enforcement or public health authorities any information from its investigations or records regarding illness, disease or injuries obtained in the course of its investigation.

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

71-6-118. Confidentiality of information, reports and proceedings — Penalties. [Effective on January 1, 2019. See version effective until January 1, 2019.]

(a)(1) The identity of a person who reports abuse, neglect, or exploitation, as those terms are defined in § 71-6-102, as required under this part, is confidential and may not be revealed except as otherwise provided in this section or upon an order by a court with jurisdiction under this part for good cause shown.

(2) The identity of a person who makes a report pursuant to § 39-15-509(a), is confidential and may not be revealed except as otherwise provided in this section or upon an order by a court with jurisdiction under this part for good cause shown.

(b) Except as otherwise provided in this part, it is unlawful for any person, except for purposes directly connected with the administration of this part or title 39, to disclose, receive, make use of, authorize, or knowingly permit, participate in, or acquiesce in the use of any list or the name of, or any information concerning, persons receiving services pursuant to this part, or any information concerning a report or investigation of a report made confidential pursuant to subsection (a), directly or indirectly derived from the records, papers, files, or communications of the department of human services or divisions thereof acquired in the course of the performance of official duties.

(c)(1) When necessary to protect elderly or vulnerable adults in a healthcare facility licensed by any state agency, the information, reports, and investigations described in subsection (b) may be disclosed to any agency providing licensing or regulation for that facility; however, the information, reports, and investigations shall retain the protection of subsection (b) when disclosed to such agency and may not be disclosed to, or used by, any other person.

(2) Notwithstanding subsections (a) and (b), adult protective services:

(A) May report to law enforcement or public health authorities any information from its investigations or records regarding illness, disease, injuries, or any offense for which reports are made confidential under subsection (a) obtained in the course of an investigation;

(B) Shall provide to the district attorney general a complete and unredacted copy of adult protective services' entire investigative file upon the commencement of a criminal prosecution for alleged conduct involving an elderly or vulnerable adult victim obtained in the course of an investigation; however, the identity of the person who reported the alleged conduct shall only be provided pursuant to subdivision (c)(2)(C) and subsection (d); and

(C) Shall provide to the district attorney general the identity of the person reporting alleged conduct involving an elderly or vulnerable adult

victim upon the return of a criminal indictment or presentment arising from the report and pursuant to written request by the district attorney and entry of a protective order preventing further release of the identity of the person reporting for any purpose other than criminal prosecution.

(3) As used in this subsection (c), "elderly or vulnerable adult" includes an adult, as defined in § 71-6-102, an elderly adult, as defined in § 39-15-501, and a vulnerable adult, as defined in § 39-15-501.

(d) Nothing in this section shall preclude the district attorney general from complying with the continuing duty to disclose evidence under the rules of discovery in a criminal prosecution.

(e) A knowing violation of subsection (a) or (b) or subdivision (c)(1) is a Class B misdemeanor.

71-6-119. Physical abuse or gross negligence — Elements of offense — Penalties. [Effective until January 1, 2019. See version effective on January 1, 2019.]

(a) It is an offense to knowingly, other than by accidental means, physically abuse or grossly neglect an impaired adult if the abuse or neglect results in serious mental or physical harm.

(b) In order to prosecute and convict a person for a violation of this section, it is not necessary for the state to prove the adult sustained serious bodily injury as required by § 39-13-102, but only that the elements set out in subsection (a) occurred.

(c) A violation of this section is a Class C felony.

71-6-119. Physical abuse—Elements of offense—Penalties. [Effective on January 1, 2019. See version effective until January 1, 2019.]

(a) It is an offense to knowingly, other than by accidental means, physically abuse an impaired adult if the abuse results in serious mental or physical harm.

(b) In order to prosecute and convict a person for a violation of this section, it is not necessary for the state to prove the adult sustained serious bodily injury as required by § 39-13-102, but only that the elements set out in subsection (a) occurred.

(c) A violation of this section is a Class C felony.

71-6-124. Procedure for seeking relief by relative having personal knowledge that an adult has been subject to or threatened with willful abuse, neglect or exploitation. [Effective on January 1, 2019. See version effective until January 1, 2019.]

(a)(1)(A) Any relative having personal knowledge that an adult has been the subject of a violation of § 39-15-502, § 39-15-507, § 39-15-508, or § 71-6-117 or that such adult is threatened with or placed in fear of a violation of § 39-15-502, § 39-15-507, § 39-15-508, or § 71-6-117 occurring against such adult may seek relief for the adult pursuant to this section by filing a sworn petition with any court with jurisdiction under this part alleging that the respondent has violated or threatens to violate § 39-15-502, § 39-15-507, § 39-15-508, or § 71-6-117, 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 lacks capacity to consent.

(C) Venue for a petition for an order of protection, and all other matters relating to orders of protection, shall be in the county where the respondent resides or the county in which the violation of § 39-15-502, § 39-15-507, § 39-15-508, or § 71-6-117 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) 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 and is in immediate danger of abuse, neglect or exploitation or that the adult's property is being, is in immediate danger of being, or has been misappropriated by the respondent.

(3) The petition and any ex parte order issued pursuant to this section shall be personally served upon the respondent and the adult. If the respondent is not a resident of this state, the ex parte order shall be served pursuant to §§ 20-2-215 and 20-2-216.

(4) 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, shall be sent by certified mail, return receipt to the adult protective services unit in the county office of department of human services in the county in which the petition is filed. The department shall have the right to intervene in the proceeding, but shall not otherwise be 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 it determines that 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 shall be held, at which time the court shall either dissolve any ex parte order that has been issued, or shall, if the petitioner has proved the adult lacks capacity to consent and the allegation of abuse, neglect or exploitation or the threat of such by a preponderance of the evidence, extend the order of protection for a definite period of time, not to exceed one hundred twenty (120) days, 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 hundred twenty (120) days.

(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 shall continue in effect until the entry of any subsequent order of protection is issued, 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 that the adult lacks capacity to consent and the allegation of abuse, neglect or exploitation of the adult or the threat of such 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 hundred twenty (120) days.

(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 the adult at least five (5) 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)(A) Order the respondent to refrain from committing a violation of this part against an adult;

(B) 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; or

(C) Order the return to the adult or the adult's caretaker or 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 result of exploitation of the adult or as 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 result of exploitation or misappropriation from the adult. Nothing in this subdivision (b)(1)(C) shall 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;

(2) Enjoin the respondent from providing care for an adult, on a temporary or permanent basis, anyone who the court finds has engaged in abuse, neglect or exploitation of an adult as defined in this part; in any situation involving the care of such adult, whether such actions occurred 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;

(3) Prohibit the respondent from telephoning, contacting, or otherwise communicating with the adult, directly or indirectly; or

(4) 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 hundred twenty (120) days. 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 or adult, or the court on its own motion shall commence a proceeding under title 34, chapters 1-3 to determine whether a fiduciary should be appointed, if any party alleges that the conditions giving rise to the order of protection continue or may continue beyond the one hundred twenty (120) days.

(d)(1) If the adult and the respondent have been served with a copy of the petition and notice of hearing, the order of protection shall be effective when

the order is entered. For purposes of this subdivision (d)(1), an order shall be considered entered once a hearing is conducted and when such order is signed by:

(A) The judge and all parties or counsel;

(B) The judge and one (1) party or counsel and 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 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 shall 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 shall so state. Service by mail is complete upon mailing.

(3) If the adult and the respondent have been served with a copy of the petition 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 shall be issued 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 for 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 shall 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) Neglect and financial exploitation, as those terms are defined in § 39-15-501; and

(2) "Adult" means an elderly adult or vulnerable adult, as those terms are defined in § 39-15-501.