49-7-112. Skills for Jobs Act — Annual report regarding state workforce need projections and credential production.

(a) This section shall be known and may be cited as the “Skills for Jobs Act”.

(b) To the extent practicable within available resources and subject to the availability of data currently collected by and accessible to state agencies, the Tennessee higher education commission, in consultation with the department of labor and workforce development and any other entity the commission deems appropriate, shall produce an annual report regarding state workforce need projections and credential production. The report shall:

1. Indicate the state’s anticipated workforce needs and the number of degrees, certificates, and other credentials that public and private institutions of higher education, including schools authorized under the Postsecondary Education Authorization Act, compiled in chapter 7, part 20 of this title, expect to issue;

2. To the extent provided by sources external to the commission, indicate the state’s anticipated number of degrees, certificates, and other credentials that high school career and technical programs, apprenticeship programs, and other public or private workforce training programs expect to issue;

3. Identify any workforce needs, including areas of specialization within a particular vocation, that may not be met by the education, training, and apprenticeship programs; and

4. Identify institutions, public or private, that may meet projected workforce needs.

(c) The department of labor and workforce development shall provide data on the state’s anticipated workforce needs and other information, as requested by the Tennessee higher education commission, that is necessary to produce the report under subsection (b) by October 1, 2013, and by October 1 of each year thereafter.

(d) The commission, by January 15, 2014, and by January 15 of each year thereafter, shall provide a copy of the report to the education committee and the commerce and labor committee of the senate, the education committee and commerce committee of the house of representatives, and the governor. The commission shall send the report to the board of regents, the University of Tennessee board of trustees and the Tennessee Independent Colleges and Universities Association. The commission shall work with the department of education to provide the report to the state’s public school districts and private elementary, middle, and high schools. The report may be provided electronically.

49-7-119. Children of public school teachers — Tuition discount.

(a)(1) A child under twenty-four (24) years of age shall receive a twenty-five percent (25%) discount on tuition to any state institution of higher education if the child’s parent:

(A) Is employed as a full-time certified teacher in any public school in Tennessee;

(B) Is employed as a full-time technology coordinator in any LEA in Tennessee;

(C) Is a retired teacher who retired after a minimum of thirty (30) years of full-time creditable service in Tennessee public schools;

(D) Received disability retirement after a minimum of twenty-five (25)
years of full-time creditable service in Tennessee public schools;

(E) Died while employed as a full-time certified teacher in a public school in Tennessee; or

(F) Died while employed as a full-time technology coordinator in an LEA in Tennessee.

(2) A child who is receiving the discount provided for by this section but whose parent dies during the time the child is enrolled and receiving the discount is eligible to continue to receive the discount as provided in this section.

(b) The Tennessee higher education commission is directed, authorized and empowered to promulgate and adopt rules and regulations necessary to implement this section, including rules and regulations for the allocation of appropriations specifically appropriated for the implementation of this section.

(c) Any reimbursements to a state institution of higher education for the tuition discounts provided by this section shall be limited to those funds specifically appropriated for that purpose in the general appropriations act. Reimbursement shall be limited to providing for the discount on tuition provided for in this section.

49-7-143. Information in student directories — Solicitations and issuance of credit cards.

(a) Any public institution of higher education that collects personal information from students, including, but not limited to, names, campus or home addresses, telephone numbers, or other identifying information, for the purpose of using this information in student or campus directories shall include on forms used for such purposes a provision whereby the student may indicate that the student does not wish to receive solicitations, offers, or other advertisements by mail or otherwise based on the directory listing. If a student indicates that the student does not wish to receive solicitations or other such offers, then the student’s preference shall be marked by the student’s name and the directory shall contain an explanation of the marking.

(b) It is unlawful for any credit card issuer to recruit potential student cardholders or customers for credit card business on campus or at college or university facilities, or through student organizations; provided, however, that colleges and universities may allow recruitment on days when there are athletic events, so long as the recruitment is in accordance with college or university policies.

(c) It is unlawful to knowingly offer gifts or any other promotional incentives to students on campus or at college or university facilities in order to entice the students to apply for credit cards.

(d) Any public institution of higher education that receives funds from the distribution of credit cards to students or any percentage from the use of cards bearing the college or university name or logo shall report the amount of such funds or percentage that it received as well as how the funds were expended during the previous fiscal year to the education committee of the senate and the education committee of the house of representatives by October of each year.

(e) Nothing in this section is intended to or shall impair the obligations, terms, conditions, or value of contracts between credit card companies and public colleges or universities that exist on July 1, 2008.
49-7-168. Classification of spouse or dependent child of an active member of the United States armed forces transferred out of state on military orders as an in-state student for tuition purposes.

(a) As used in this section:
   1. “Continuous enrollment” means a student is enrolled in the fall and spring semesters of a single academic year. Enrollment in summer semester or inter-session terms is not required;
   2. “Dependent child” means a natural child, stepchild, or adopted child of a service member;
   3. “Institution of higher education” or “institution” means any public postsecondary institution operated by the board of trustees of the University of Tennessee system, the board of regents of the state university and community college system, or a local governing board of trustees of a state university that offers courses of instruction leading to a certificate or degree;
   4. “Service member” means a member of the United States armed forces who is engaged in active military service; and
   5. “Spouse” means the person to whom the service member is legally married.

(b) Notwithstanding §§ 49-8-104 and 49-9-105, an institution of higher education shall classify a student who is the spouse or dependent child of a service member who has been transferred out of the state of Tennessee on military orders as an in-state student for tuition purposes, if the spouse or dependent child:
   1. Was accepted for admission to an institution of higher education;
   2. Was initially classified by the institution that accepted the spouse or dependent child for admission as a Tennessee resident for tuition purposes;
   3. Enrolls as a student in the institution that initially classified the spouse or dependent child as a Tennessee resident for tuition purposes for the academic term for which the spouse or dependent child was accepted for admission; and
   4. Maintains continuous enrollment in that institution.

49-7-169. Annual report detailing higher education opportunities available to eligible incarcerated individuals.

(a) The department of correction shall, in partnership with the Tennessee higher education commission and the board of regents, develop and submit to the general assembly an annual report that details the higher education opportunities available to eligible incarcerated individuals in this state.

(b) The report must include:
   1. The number of eligible incarcerated individuals housed at each correctional facility who are participating in higher education opportunities;
   2. The higher education opportunities available at each correctional facility, including the name of each institution of higher education providing higher education opportunities, along with a description of each course, field of study, or program provided by the institution of higher education;
   3. The number of degrees annually conferred to eligible incarcerated individuals housed in a correctional facility, including the name of each institution of higher education conferring the degree;
   4. Recommendations from the commissioner of correction, made in partnership with the executive director of the Tennessee higher education commission, on ways to improve access to higher education for incarcerated individuals.
commission and the chancellor of the board of regents, to increase the higher education opportunities available to eligible incarcerated individuals housed in correctional facilities in this state; and

(5) A plan to equip at least ten percent (10%) of eligible incarcerated individuals housed in correctional facilities in this state with a degree, diploma, or certificate by the year 2025 by increasing the availability of, and participation in, higher education opportunities provided by institutions of higher education.

(c) The department shall transmit the report required under this section to the chairs of the education committees of the senate and the house of representatives, and to the chairs of the judiciary committees of the senate and the house of representatives, no later than January 1 of each year.

49-7-170. Confidentiality of records maintained by intercollegiate athletics program. [Effective until July 1, 2026.]

(a) Notwithstanding § 10-7-504 or any other law to the contrary, records maintained by an intercollegiate athletics program of a public institution of higher education must be treated as confidential and must not be open for public inspection if the records contain information relating to game or player integrity and that is traditionally not revealed publicly due to the public institution of higher education’s need to maintain competitiveness in the sport to which the records relate.

(b) As used in this section, “information relating to game or player integrity and that is traditionally not revealed publicly due to the public institution of higher education’s need to maintain competitiveness in the sport to which the records relate” includes, but is not limited to, plays or playbooks; signals; plans, techniques, philosophies, strategies, systems, drills, or schemes for practices, games, or other team activities; recordings of practices, games, or other team activities; assessments of a participant including a player, recruit, game official, or opposing coach; information related to nutrition, medical care, physical therapy, recovery, strength-training, conditioning, or a player’s likelihood of participating in a sport or athletic competition; and other information which, if disclosed to the public, reasonably could be used to affect the integrity of a sport, athletic contest, a participant in a sport or athletic contest, or a bet or wager on a sport or athletic contest.

(c) This section does not limit access to records:

(1) Of a law enforcement agency, court, or other governmental agency that is performing an official function;

(2) That relate to a court’s or governmental agency’s determination that an individual or a public institution of higher education violated a law; or

(3) That relate to a notice of an allegation by, or a determination of, the National Collegiate Athletic Association (NCAA) that an individual or institution violated a NCAA rule, including, but not limited to, a warning, reprimand, fine, suspension, termination, or other similar action, imposed by a public institution of higher education or the NCAA.

(d) This section does not prohibit a coach or other employee of a public institution of higher education from releasing information related to a player’s injury, a player’s or team’s readiness to participate in a competition, or any other observation or strategy if the release of information is part of the traditional and regular communication that a coach or other employee of a
public institution of higher education voluntarily releases to inform the public.

(e) Notwithstanding subsection (a), records, or parts of records, that are
confidential pursuant to this section must be released to the public upon a
request made in accordance with § 10-7-503 when the public’s interest in the
content of the records outweighs the interest of game or player integrity or the
need to maintain competitiveness in the sport to which the records relate, or
when game or player integrity or the need to maintain competitiveness in a
sport are no longer relevant due to the passage of time. For purposes of this
subsection (e), “public interest” includes, but is not limited to, accountability of
the public institution of higher education, public officials, or employees of the
public institution of higher education. This subsection (e) does not apply to
records otherwise confidential under state or federal law.

(f) This section is repealed on July 1, 2026.

49-7-171. Homeless student liaison — Plan to provide students access
to housing resources.

(a) A degree-granting postsecondary educational institution, as defined in
§ 49-7-2003, that has a campus in this state shall:

1) Designate a staff member who is employed in the financial aid office,
or another appropriate office or department as determined by the institution,
to serve as a homeless-student liaison. The homeless-student liaison is
responsible for understanding the provisions pertaining to financial aid
eligibility of homeless students, including eligibility as independent stu-
dents under the Higher Education Act of 1965 (20 U.S.C. § 1087vv), and
identifying services available and appropriate for students enrolled at the
institution who fall under these categories. The homeless-student liaison
shall assist homeless students who are enrolled in the institution in applying
for and receiving federal and state financial aid and available services; and

2) If the institution offers housing resources, develop a plan to provide
homeless students who are enrolled in the institution access to housing
resources during and between academic terms. The plan must include
granting homeless students first priority in housing placement and placing
those students in housing facilities that remain open for occupation for the
most days in a calendar year.

(b) As used in this section, “homeless student” means a student under
twenty-five (25) years of age who has been verified as a homeless child or
youth, as defined in the McKinney-Vento Homeless Assistance Act (42 U.S.C.
§ 11434a(2)), at any time during the twenty-four (24) months immediately
preceding the student’s enrollment in, or at any time while enrolled in, a
degree-granting postsecondary educational institution by:

1) A director or designee of a governmental or nonprofit agency that
receives public or private funding to provide services to homeless persons;

2) An LEA liaison for homeless children and youth designated pursuant
to 42 U.S.C. 11432(g)(1)(J)(ii), or a school social worker or counselor;

3) The director of a federal TRIO or Gaining Early Awareness and
Readiness for Undergraduate Programs program, or a designee of the
director; or

4) A financial aid administrator for a degree-granting postsecondary
educational institution.
49-7-172. Suicide prevention plan for students, faculty, and staff.

(a) Each state institution of higher education shall develop and implement a suicide prevention plan for students, faculty, and staff. The plan must be developed in consultation with campus mental health professionals and suicide prevention experts. The plan must identify procedures related to suicide prevention, intervention, and postvention.

(b) Each state institution of higher education may seek assistance in developing a suicide prevention plan from an organization that engages in a variety of initiatives to improve crisis services and advance suicide prevention, such as the Tennessee Suicide Prevention Network or a successor organization, and may seek information from such an organization for information on the development of training programs pursuant to § 63-1-125(c)(1).

(c) Each state institution of higher education shall provide the suicide prevention plan to students, faculty, and staff at least one (1) time each semester.

49-7-202. Duties.

(a) It is the duty of the commission on a continuing basis to study the use of public funds for higher education in this state and to analyze programs and needs in the field of higher education.

(b) The commission shall establish and ensure that all postsecondary institutions in this state cooperatively provide for an integrated system of postsecondary education. The commission shall guard against inappropriate and unnecessary conflict and duplication by promoting transferability of credits and easy access of information among institutions.

(c) The commission shall:

1) Provide planning and policy leadership, including a distinct and visible role in setting the state’s higher education policy agenda and serving as an agent of education transformation;

2) Develop and advance the education public policy agenda of the state to address the challenges facing higher education in Tennessee; and

3) Develop public consensus and awareness for the Tennessee higher education public policy agenda.

(d) (1) The commission shall develop a statewide master plan to increase the educational attainment levels of Tennesseans through strategic future development of public universities, community colleges, and colleges of applied technology.

2) In the development of this master plan, the commission shall actively engage with state institutions of higher education and their respective governing boards, as well as key stakeholders, and the appropriate state agencies.

3) The commission shall engage regional and statewide constituencies for input and information to ensure the master plan supports the development of higher education opportunities for Tennesseans. Additionally, provisions of the master plan shall facilitate regional cooperation and alignment among postsecondary institutions, secondary educational institutions, business, and industry, as well as civic and community leaders.

4) This master plan shall be reviewed and revised as deemed appropriate by the commission, and shall include, but not be limited to, consideration of the following provisions:
(A) Addressing the state’s economic development, workforce development, and research needs;
(B) Ensuring increased degree production within the state’s capacity to support higher education;
(C) Using institutional mission differentiation to minimize redundancy in degree offerings, instructional locations, and competitive research, and to realize statewide efficiencies through institutional collaboration; and
(D) Establishing eligible incarcerated individuals housed in correctional facilities in this state as a focus population in order to increase the degree attainment of such individuals.

(5) Following completion of the master plan and to expedite implementation, the commission shall submit any necessary higher education policy recommendations to the governing boards of the various institutions, the governor, and the general assembly through the education committee of the senate and the education committee of the house of representatives.

(e) Concurrent with the adoption of each revised master plan and in consultation with the respective governing boards, the commission shall approve institutional mission statements. Submitted by state institutions, an institutional mission statement shall characterize distinctiveness in degree offerings and shall address institutional accountability for the quality of instruction, student learning, and, where applicable, research and public service to benefit Tennesee citizens. Nothing contained in this section shall prohibit any institution from pursuing research and related activities that are consistent with the institution’s mission.

(f)(1) The commission shall develop and utilize an outcomes-based funding formula model to ensure the fair and equitable distribution and use of public funds among state institutions of higher education.
(2) This funding formula model shall further the goals of the statewide master plan by emphasizing outcomes across a range of variables that shall be weighted to reinforce each institution’s mission and provide incentives for productivity improvements consistent with the state’s higher education master plan, including:
   (A) End-of-term enrollment for each term, student retention, and timely progress toward degree completion and degree production;
   (B) Student transfer activity, research, and student success, as well as compliance with the transfer and articulation policies required in this section.
(3) The funding formula model shall consider the impact of tuition, maintenance fees, and other charges assessed by each institution in determining the fair and equitable distribution of public funds. The commission shall also consider capital outlay programs and operating expenses, which shall be utilized to determine the higher education appropriations recommendation.

(g)(1) The commission shall establish a review committee to aid in development or revision of the higher education master plan and funding formula. The committee shall include the executive director of the Tennessee higher education commission, the chancellor of the board of regents, the president of the University of Tennessee system, each president of a board of regents state university, the commissioner of finance and administration, the comptroller of the treasury, the chairs of the standing committees on education and finance, ways and means of the senate, the chairs of the standing
committees on education and finance, ways and means of the house of representatives, and the directors of the office of legislative budget analysis, or their designees.

(2) The committee shall review the funding formula components, as well as identify needed revisions, additions, or deletions to the formula. The committee shall also ensure that the funding formula is linked to the goals and objectives of the master plan.

(3) The review committee shall meet at least annually.

(h) The commission shall submit the revised higher education funding formula to the office of legislative budget analysis and the comptroller of the treasury no later than December 1 of each year. The commission shall also report any projected tuition increases for the next academic year to the office of legislative budget analysis and the comptroller of the treasury no later than December 1 of each year. The office of legislative budget analysis and the comptroller of the treasury shall each provide comments on the higher education funding formula to the chairs of the education and finance, ways and means committees of the senate and the chairs of the education and finance, ways and means committees of the house of representatives.

(i) Before any amendment or revision to the outcomes-based funding formula model shall become effective, the amendment or revision shall be presented to the education and finance, ways and means committees of the senate and the education and finance, ways and means committees of the house of representatives for review and recommendation.

(j) In the implementation of its duties, the commission, in cooperation with the commissioner of finance and administration and the comptroller of the treasury, shall establish uniform standards of accounting, records, and statistical reporting systems in accordance with accepted national standards, which standards shall be adhered to by the various institutions in preparing for submission to the commission statistical data and requests for appropriations.

(k) The commission shall develop funding recommendations that reflect the outcomes-based funding formula model as well as the priorities of the approved master plan.

(l) The commission shall have no authority for recommending individual colleges of applied technology’s operating budgets nor in approving or disapproving the transfer of any funds between colleges of applied technology deemed necessary by the board of regents to carry out the provisions of chapter 181 of the Public Acts of 1983. For fiscal years ending on and after June 30, 2013, the commission shall have no authority for recommending individual community colleges’ operating budgets or in approving or disapproving the transfer of any funds between community colleges as may be determined necessary by the board of regents.

(m) The commission shall develop a comprehensive strategic financial plan for higher education focusing on state appropriations, student tuition and other charges, financial aid, and capital and infrastructure issues, as well as other factors, as appropriate. The plan shall also address higher education efficiency, affordability, performance, return on investment, and other relevant factors.

(n)(1) The commission shall review annually tuition and other institutional fees charged to students attending state institutions of higher education.

(2) Following this review, the commission shall approve annually a tuition and fee policy binding upon all state institutions of higher education. This
tuition policy shall apply only to tuition and fees charged to undergraduate students classified as Tennessee residents, commonly referred to as in-state tuition or maintenance fees.

(3) The tuition policy shall include two (2) approved ranges of allowable percentage adjustment:
   (A) One (1) range for any proposed modification to the current tuition rates; and
   (B) One (1) range for any proposed modification to the combined total amount of tuition and all mandatory fees assessed.

(4) Institutions may adopt tuition and fee adjustments within the commission’s approved policy ranges, but no increase shall exceed the maximum percent adjustment approved by the commission.

(5) Tuition-setting authority for undergraduate students not classified as Tennessee residents and all graduate-level students shall be the sole responsibility of the institution’s respective governing board.

(6) Nothing in this subsection (n) shall prohibit institutions from reducing the total tuition and fees charged to students.

(7) Notwithstanding this subsection (n), no change in tuition or fee policy shall be made that, in the opinion of the board of regents, might adversely affect compliance with, or future borrowings pursuant to, financing agreements with the Tennessee state school bond authority.

(o) The commission shall establish a formal process, consistent with § 49-7-1002, for identifying capital investment needs and determining priorities for these investments for consideration by the governor and the general assembly as part of the annual appropriations act.

(p) As necessary, the commission may convene the membership, leaders, and personnel of each public institution, governing board, or system to ensure a cohesive and coordinated system of higher education public policy. The commission may also conduct orientation and informational policy seminars for members of governing boards.

(q)(1)(A) The commission shall study the need for particular programs, departments, academic divisions, branch operations, extension services, adult education activities, public service activities, and work programs of the various institutions of higher learning, with a particular view to their cost and relevance and to make recommendations to the respective governing boards for the purpose of minimizing duplication and overlapping of functions and services and to foster cooperative programs among the various institutions.

(B) The commission is authorized to make recommendations to the governing boards for the termination of existing on-campus and off-campus programs of those institutions set forth in § 49-7-203 that are determined by the commission to be unnecessarily duplicative. A copy of the recommendations shall be filed with the education committee of the senate and the education committee of the house of representatives.

(C) The governing boards of the institutions shall make a report annually on any program terminations to the education committee of the senate and the education committee of the house of representatives, and a copy of the report shall be filed with the commission.

(2)(A) The commission shall review and approve or disapprove all proposals for new degrees or degree programs or for the establishment of new academic departments or divisions within the various institutions of
higher learning.

(B) Determination of specific courses or course content, however, shall continue to be the exclusive function of the governing boards of the various institutions.

(C) This subdivision (q)(2) shall apply to state colleges of applied technology only if the schools grant degrees and shall apply only to those schools granting degrees, unless the system as a whole grants degrees.

(3) The commission shall review and approve or disapprove all proposals by any existing higher education institution to establish a physical presence at any location other than its main campus or to extend an existing location that will be utilized for administrative purposes or to offer courses for which academic credit is offered. If the new location will create or expand a physical presence out of state, the higher education institution shall, through its governing board, file with the commission a notice of intent to initiate out-of-state instructional activity prior to the development of the proposal. The commission shall, no later than February 15 of each year, report to the chairs of the fiscal review committee, the education committee of the senate, and the education committee of the house of representatives of any such notices filed in the previous year and the status of that application. The commission shall develop policies and procedures governing the process outlined in this subdivision (q)(3). This subdivision (q)(3) shall also apply to state colleges of applied technology.

(r)(1) The commission shall require all state institutions of higher education to collaborate and develop a transfer pathway for at least the fifty (50) undergraduate majors for which the demand from students is the highest and in those fields of study for which the development of a transfer pathway is feasible based on the nature of the field of study.

(2)(A) A transfer pathway shall consist of sixty (60) hours of instruction that a student can transfer and apply toward the requirements for a bachelor’s degree at a public institution that offers the transfer pathway. The sixty (60) hours of instruction in a transfer pathway shall consist of forty-one (41) hours of general education courses instruction and nineteen (19) hours of pre-major courses instruction, or elective courses instruction that count toward a major, as prescribed by the commission, which shall consider the views of chief academic officers and faculty senates of the respective campuses. Courses in a transfer pathway shall transfer and apply toward the requirements for graduation with a bachelor’s degree at all public universities.

(B) An associate of science or associate of arts degree graduate from a Tennessee community college shall be deemed to have met all general education and university parallel core requirements for transfer to a Tennessee public university as a junior. Notwithstanding this subdivision (r)(2)(B), admission into a particular program, school, or college within a university, or into the University of Tennessee, Knoxville, shall remain competitive in accordance with generally applicable policies.

(C) The forty-one-hour lower division general education core common to all state colleges and universities shall be fully transferable as a block to, and satisfy the general education core of, any public community college or university. A completed subject category, for example, natural sciences or mathematics, within the forty-one-hour general education core shall also be fully transferable and satisfy that subject category of the general
education core at any public community college or university.

(D) The nineteen-hour lower division AA/AS area of emphasis articulated to a baccalaureate major shall be universally transferable as a block satisfying lower division major requirements to any public university offering that degree program major.

(3) It is the legislative intent that community college students who wish to earn baccalaureate degrees in the state’s public higher education system be provided with clear and effective information and directions that specify curricular paths to a degree. To meet the intent of this section, the commission, in consultation with the governing boards of all state institutions of higher education, shall develop, and the governing boards of all state institutions of higher education shall implement, the following:

(A) A common course numbering system, taking into consideration efforts already undertaken, within the community colleges to address the requirements of subdivision (r)(1); and

(B) Listings of course offerings that clearly identify courses that are not university parallel courses and therefore not designed to be transferable under subdivision (r)(1).

(4) This subsection (r) shall be fully implemented no later than the fall 2015 semester. Until this subsection (r) is fully implemented, prior to the beginning of each semester, the commission shall report to the chairs of the education and finance, ways and means committees of the senate and the chairs of the education administration and planning and finance, ways and means committees of the house of representatives on the progress made toward completion of the nineteen (19) pre-major course blocks provided in subdivision (r)(2)(D).

(5) The commission shall have ongoing responsibility to update and revise the plans implemented pursuant to this subsection (r) and report to the chairs of the education and finance, ways and means committees of the senate and the chairs of the education and finance, ways and means committees of the house of representatives no later than October 1 of each year on the progress made toward full articulation between all public institutions.

(s) Notwithstanding any law or rule to the contrary, the commission, in consultation with the governing boards of state institutions of higher education, shall develop policies under which a person who satisfies the admissions requirements of a two-year institution and a four-year institution may be admitted to both such institutions. The commission shall identify those institutions for which such dual admission is appropriate, based on geographic or programmatic considerations. These policies shall be adopted and implemented by the governing boards of all state institutions of higher education no later than July 1, 2015.

(t)(1) The commission, with the assistance of the University of Tennessee system, state universities, and the community college system, shall develop information concerning the potential career opportunities in each curriculum or major field of study leading to a baccalaureate degree that is offered at a state institution of higher education. The information shall include, but not be limited to, the potential job market in this state in the major field or curriculum after graduation, the median income or an income range for jobs in the major field or curriculum in this state, and whether an advanced degree in the major field or curriculum is required to obtain employment in
that field.

(2) The information developed concerning career opportunities for curricula and major fields of study under subdivision (t)(1) shall be posted on the commission's web site. A link to the information developed by the commission, together with a brief description of the type of information available, shall be posted on the web site of each state institution of higher education offering baccalaureate degrees. The institutions shall not be required to publish the information developed by the commission in school catalogs, but school catalogs shall include, in a prominent location, the web site address for the information and a brief description of the type of information that is available.

(3) The information required by this subsection (t) shall be updated at least annually.

(u) The commission shall undertake specific duties that are directed by resolution of the general assembly or requested by the governor.

49-7-215. Audit of efficiencies.

An audit of the Tennessee higher education commission, the University of Tennessee board of trustees and the board of regents may be conducted by the comptroller of the treasury. If such audit is conducted, the audit shall specifically focus on overlap in mission, cost inefficiencies, management practices and the restructuring of higher education stipulated by the implementation of Acts 2010 (1st Ex. Sess.), ch. 3. If such audit is conducted, the audit shall be submitted to the education committee of the senate and the education committee of the house of representatives for review and recommendation.

49-7-217. Initiative on historically black colleges and universities.

(a) The “Initiative on Historically Black Colleges and Universities (HBCUs)” or “initiative”, as used in this section, is an organizational unit of the commission, established and administered by the executive director for the purpose of providing oversight to focus on ways to strengthen the capacity of historically black colleges and universities to provide the highest quality education, increase opportunities for these institutions to participate in and benefit from state programs, and ensure that Tennessee has the highest proportion of college graduates from HBCUs in the country. The initiative shall operate in consultation with the consortium of historically black colleges and universities, pursuant to Part 29 of this chapter.

(b) The initiative shall work with state departments, agencies, offices, the private sector, educational associations, philanthropic organizations, and other partners to increase the capacity of HBCUs to provide the highest quality education to a greater number of students, and to take advantage of these institutions’ capabilities in serving the state’s needs through five (5) core tasks:

(1) Strengthening the capacity of HBCUs to participate in state programs;
(2) Fostering enduring private-sector initiatives and public-private partnerships while promoting specific areas and centers of academic research and programmatic excellence throughout all HBCUs;
(3) Improving the availability, dissemination, and quality of information concerning HBCUs to inform public policy and practice;
(4) Sharing administrative and programmatic practices within the consortium for the benefit of all; and

(5) Exploring new ways of improving the relationship between the state and HBCUs.

(c)(1) The commission is authorized and directed to provide all necessary and appropriate guidance, assistance, and support to facilitate strategy development and coordinated implementation by the initiative and the partnership to accomplish the respective and mutual key tasks of the initiative as outlined in subsection (b).

(2) In furtherance of subdivision (c)(1), the commission may enter into one or more memoranda of cooperation with the initiative and the partnership on terms deemed by the commission to be appropriate, mutually beneficial, and in the best interest of the consortium and the partnership.

(d) All state departments and agencies are encouraged to create an annual plan of its efforts to strengthen the capacity of HBCUs through increased participation in appropriate federal programs and initiatives. Where appropriate, each agency plan shall address, among other things, the agency’s proposed efforts to:

(1) Establish how the department or agency intends to increase the capacity of HBCUs to compete effectively for grants, contracts, or cooperative agreements and to encourage HBCUs to participate in state programs;

(2) Identify state programs and initiatives in which HBCUs may be either underserved or underused as national resources, and improve HBCUs’ participation therein; and

(3) Encourage public-sector, private-sector, and community involvement in improving the overall capacity of HBCUs.

(e) If a department or agency creates an annual plan pursuant to subsection (d), then the department or agency shall:

(1) Provide appropriate measurable objectives and, after the first year, shall annually assess that department’s or agency’s performance on the goals set in the previous year’s agency plan; and

(2) Provide a written summary of the objectives and goals to the education committee of the senate and the education committee of the house of representatives within thirty (30) days of the annual assessment required in subdivision (e)(1).

(f) The initiative may establish a board of advisors to consist of no more than twenty-five (25) members appointed by the commission. The board shall include representatives of a variety of sectors, including philanthropy, education, business, finance, entrepreneurship, innovation, and private foundations, as well as sitting HBCU presidents. The board may advise the commission and the initiative in the following areas:

(1) Improving the identity, visibility, and distinctive capabilities and overall competitiveness of HBCUs;

(2) Engaging the philanthropic, business, government, military, homeland security, and education communities in a dialogue regarding new HBCU programs and initiatives;

(3) Improving the ability of HBCUs to remain fiscally secure institutions that can assist the state in reaching its educational goals;

(4) Elevating the public awareness of HBCUs; and

(5) Encouraging public-private investments in HBCUs.
49-7-218. Report on federal and state appropriations made for federal land-grant institutions of higher education.

(a) By February 15 of each year, the commission shall provide a report to the general assembly detailing, for the immediately preceding academic year, the amount of any federal appropriations made to, and the amount of any matching funds received by, each federal land-grant institution of higher education in this state for each of the agricultural research, extension, education, and related programs established under:

1. Section 1444 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. § 3221);
2. Section 1445 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. § 3222);
3. Sections 3(b) and (c) of the Smith-Lever Act (7 U.S.C. § 343); and
4. The Hatch Act of 1887 (7 U.S.C. § 361a et seq.).

(b) The commission’s report:

1. Must include the amount of any state appropriations made to each federal land-grant institution of higher education in this state for agriculture education; and
2. May include any additional information that may assist the general assembly in providing equitable funding to each of the federal land-grant institutions of higher education in this state.

49-7-502. Chairs of excellence program.

(a) The chairs of excellence program is created.

(b) Institutions eligible to participate in the program shall be limited to Tennessee’s four-year public universities that grant baccalaureate degrees and the University of Tennessee Space Institute.

(c)(1) It is the intent of the general assembly that all eligible institutions will receive at least one (1) chair of excellence.

2. It is the intent of the general assembly that professors hired by the institutions under this program shall be persons of regional and, preferably, national eminence.

(d) In order for a chair to be established, the following criteria must be satisfied:

1. Funds appropriated by the state must be matched on an equal basis by the institution with at least one half (½) of the institution’s funding from private sources;
2. The chair must satisfy criteria established by either the governing board of the University of Tennessee or respective state university listed in § 49-7-501(c)(7)(A), whichever is appropriate;
3. The institution must submit a proposal regarding the chair to the appropriate governing body; and
4. The appropriate governing body must designate the chair;

(e) The Tennessee higher education commission shall have an advisory role with respect to the location of the chairs upon the recommendation of the governing boards of the University of Tennessee and respective state university listed in § 49-7-501(c)(7)(A).

(f) The education committee of the senate and the education committee of the house of representatives shall review the comments of the commission and the governing boards’ decisions with respect to each chair. No funds shall be
expended for the chairs of excellence authorized by this part until the governing boards have received the written comments of the education committee of the senate and the education committee of the house of representatives on each specific chair established. In submitting a specific chair for review, the commission and appropriate governing board shall:

1. Estimate the annual funding required, by source, to support operation of the chair;
2. Describe the general qualifications of individuals that the institution intends to recruit to fill the chair;
3. Comment on how establishment of the chair will assist the institution in achieving that institution’s mission; and
4. Comment on the impact the establishment of the chair will have on any other institutional programs.

(g) As chairs are filled, each governing board shall submit a report to the education committee of the senate and the education committee of the house of representatives that includes the appointees’ general background, experience and qualifications.

(h) The commission shall submit an annual report to the education committee of the senate and the education committee of the house of representatives that addresses the general status of the chairs of excellence program, the impact that the chairs of excellence program has had on higher education institutions and programs and recommendations to enhance the effectiveness of the program.

49-7-503. Modification of the purpose for which chair established.

(a) Should the purpose for which a chair established pursuant to this part become unlawful, impracticable, impossible to achieve or wasteful, the designated purpose for which the chair was created may be modified pursuant to this section. It is the legislative intent that in such situations, institutions strive to redesignate the field of study supported by a chair, such that income from the chair of excellence be used by the institution to retain professors of regional and, preferably, national eminence in a given field of study in furtherance of the original legislative intent. However, under extraordinary circumstances, the purpose for an existing chair may be redesignated to support a scholarship program, when it is shown that redesignating the field of study supported by a chair will not serve to promote the best interest of the institution. Factors considered in making such a determination may include the existence of extensive periods of time during which the chair remains unfilled or the fulfillment of the academic purpose for which the chair was created has become impractical or unachievable.

(b) In order for the purpose of a chair to be modified, the following criteria must be satisfied:

1. The new purpose of the chair must satisfy criteria established by either the governing board of the University of Tennessee or respective state university listed in § 49-7-501(c)(7)(A) that has established the chair of excellence, whichever is appropriate;
2. The institution must submit a proposal regarding the chair to the appropriate governing body and the Tennessee higher education commission. The proposal shall specify:

   (A) The factors supporting a conclusion that the purpose for which a chair established pursuant to this part has become unlawful, impracti-
cable, impossible to achieve or wasteful;

(B) The intended purpose for the redesignated use of income from the chair;

(C) If possible, a statement from the donor of private funds shall be included that indicates support or opposition to the proposed change;

(D) The institution’s observations on how the proposed change will assist the institution in achieving that institution’s mission; and

(E) Any other information as the appropriate governing board may direct; and

(3) The appropriate governing body must agree to the modification in purpose of the chair; provided, that, if the proposal is to use chair income for scholarships, approval must be unanimous. The appropriate governing body shall not act on a proposal submitted pursuant to this part until the comments of the higher education commission have been received;

(c) No funds shall be expended for the proposed new purpose of a chair of excellence authorized by this section, unless the proposal is submitted to the education committee of the senate and the education committee of the house of representatives for review and recommendation and is approved by resolutions of the senate and the house of representatives; provided, however, that the approval shall be on the complete plan or revision and shall not be subject to amendment of the plan or revision. In submitting a specific chair for review by the general assembly and its committees, the appropriate governing board shall:

(1) Estimate the annual funding required, by source, to support operation of the chair or scholarship program;

(2) Describe the general qualifications of individuals that the institution intends to recruit to fill the chair or, if a scholarship program, provide a description of the program, including the purpose and qualifications that students must meet to be eligible for the scholarships;

(3) Comment on how establishment of the chair or scholarship program will assist the institution in achieving that institution’s mission; and

(4) Comment on the impact the establishment of the chair or scholarship program will have on any other institutional programs.

(d) The corpus that was allocated to the chair shall not be expended for any purpose. Income from the corpus shall be expended for the sole purpose of funding the scholarship program created pursuant to subsection (b); provided, that investment expenses may be deducted from the income. The corpus and the income from the corpus shall remain, and be invested as, a part of the chairs of excellence endowment fund.

(e) The state treasurer is directed to modify the terms of the trust instrument to reflect this section. The modified terms shall be approved by the attorney general and reporter.

49-7-1202. Purpose of LEAP.

The purpose of LEAP is to provide students in colleges of applied technology, community colleges, and, where applicable, high schools the opportunity to combine occupational training in a high-skill or high-need field with academic credit and to apply that combined work and academic experience towards acquiring a postsecondary credential. Any college of applied technology or community college may establish a LEAP under this part, subject to the
approval of the board of regents. The LEAP shall enable employers to employ a participating student on such basis as the employer determines appropriate, and to provide occupational training to the student during the period of employment; provided, that any cooperative education earnings, wages, salary, or other compensation received by the student shall not be included in any determination of the student’s eligibility for any state financial assistance or grants. The LEAP shall also allow the transferability of the student’s completed occupational training and academic hours at other colleges of applied technology, community colleges, and postsecondary institutions in this state in accordance with established transfer pathways, and institution and program accreditation requirements. Notwithstanding any provision of this part to the contrary, the LEAP shall not in any way adversely affect the accreditation of an institution.

49-7-1206. Awarding grants.

Subject to appropriation by the general assembly in the annual appropriations act, the Tennessee higher education commission, in consultation with the board of regents, may award a grant to any college of applied technology or community college in this state that is located in a region where advanced training opportunities or a highly-skilled workforce is lacking. The funds from the grants must be used to establish and implement a LEAP under this part. The commission shall establish procedures for grant applications, eligibility and reporting requirements, and the maximum amount of any grant authorized by this section.

49-7-1208. Creation in state treasury of a workforce advanced training fund — Appropriation of funds — Administration of fund.

There is created in the state treasury a “workforce advanced training fund,” referred to in this part as the “fund.” The fund shall consist of moneys appropriated to the fund by the general assembly. Interest accruing on investments and deposits of the fund shall be carried forward into the subsequent fiscal year. Any fund balance remaining unexpended at the end of a fiscal year shall remain in the fund and shall not be transferred or revert to the general fund of the state at the end of any fiscal year. Moneys in the fund shall be invested by the state treasurer in accordance with § 9-4-603. The fund shall be administered by the Tennessee higher education commission. Moneys in the fund shall be subject to annual appropriation by the general assembly to the Tennessee higher education commission to cover the costs associated with the establishment of the LEAP and any grants authorized pursuant to this part.

49-7-1210. Reports by the higher education commission.

On or before January 15 of each year, the Tennessee higher education commission shall submit a report to the education committee of the senate and the education committee of the house of representatives detailing, for each LEAP established in this state, the academic credit attainment of participants and an overview of each program. The commission shall post the report on the commission’s website.
49-7-1310. Identification and development of uniform methods to assess and maximize academic credit awarded for experience, education and training obtained during military service — Deadline for adoption of policies.

(a) State institutions of higher education shall develop and implement uniform procedures for awarding academic credit applicable toward a degree or credential for military education, training, experience, and occupational specialties in the form of course credit equivalencies. State institutions of higher education shall provide these course equivalencies to veterans and service members as they transition from military service to higher education.

(b)(1) To achieve the goal of uniform evaluation of military credit, THEC shall select military occupational specialties and academic programs with the potential to promote veteran credential completion and employment based on workforce needs and occupational demand. On or before November 1, 2017, THEC shall submit this information to the respective state institution governing boards for review.

(2) Following the review provided by subdivision (b)(1), THEC, working with the governing boards, shall convene appropriate faculty and subject matter experts to provide initial support as institutions develop course equivalencies, applicable to specific armed forces career fields, that maximize academic credit awarded for education, training, and experience obtained during military service.

(c) In developing course equivalencies and awarding academic credits, state institutions shall:

1. Consider skills developed in all aspects of military education, training, and experience, beyond the physical fitness or activity components;
2. Provide progress reports to the commission, upon request, as course equivalencies are developed and implemented; and
3. Submit course equivalencies to THEC on or before December 15, 2018, detailing how academic credit toward the institution’s respective credentials will be awarded. This data and information shall be submitted using the format and procedures prescribed by THEC.

(d) Course equivalencies developed pursuant to this section shall result in the award of academic credit to veterans and service members consistent with the standards of the American Council on Education or equivalent standards for awarding academic credits.

(e) Using the course equivalencies provided by state institutions pursuant to this section, THEC shall develop and maintain a website to inform potential students with military experience of the academic credit available to them prior to enrollment at a state institution of higher education. The website shall include databases sortable by military occupational specialty, with clear descriptions of the academic credit available to the veteran or service member, the degrees or other credentials to which that academic credit is applicable, and the state institutions offering the credit and credentials.

(f) Tennessee Technological University is specifically authorized to assist the commission, as requested, by providing technical and other assistance in the development and maintenance of an electronic course equivalency database.

(g) The chancellor of the board of regents may utilize board office resources in furtherance of the purposes of this section and is authorized to adopt, where applicable and appropriate, uniform system-wide course equivalencies for
community colleges and colleges of applied technology.

(h) The executive director of THEC is authorized to develop procedures and convene representatives from each state institution of higher education or system, as necessary, to effect the purposes of this section.

(i) On or before February 15, 2019, THEC shall submit a report to the education committee of the senate and the education committee of the house of representatives detailing progress made in formalizing processes for uniform evaluation of military credit, and the extent to which the credit awarded will facilitate efficient and timely credential completion in alignment with state goals.

49-7-2004. Exempt institutions.

(a) The following education and educational institutions are exempted from this part:

(1) Institutions exclusively offering instruction at any or all levels from preschool through the twelfth grade;

(2) Education sponsored by a bona fide trade, business, professional or fraternal organization, so recognized by the commission, solely for that organization's membership or offered on a no-fee basis;

(3) Education solely avocational or recreational in nature, as determined by the commission, and institutions offering such education exclusively;

(4) Education offered by eleemosynary institutions, organizations or agencies, so recognized by the commission; provided, that the education is not advertised or promoted as leading toward educational credentials;

(5) Postsecondary educational institutions established, operated, and governed by this state or its political subdivisions, including approved postsecondary training schools, academies, or facilities established, operated, and governed by this state or its political subdivisions and the colleges of applied technology under the exclusive control and jurisdiction of the board of regents;

(6) A postsecondary educational institution that:

(A) Has had its primary campus domiciled in the same state for at least twenty (20) consecutive years, continues to have its primary campus domiciled in that state, and is:

(i) The primary campus;

(ii) Another location of the institution in the same state where the primary campus is domiciled; or

(iii) An alternate location, including a branch or satellite campus, located in a state other than the state where the primary campus is domiciled, but has been located in the state where the alternate location is presently located for at least twenty (20) consecutive years;

(B) Is accredited by an accrediting agency recognized by the United States department of education and its primary campus has been accredited by a recognized accreditor for at least twenty (20) consecutive years;

(C) Is chartered where its primary campus is domiciled as a not-for-profit entity and has continuously been so chartered for at least twenty (20) consecutive years;

(D) Meets and maintains financial standards acceptable to the accreditor for the purpose of maintaining accreditation or to the United States department of education for the purpose of being a Title IV eligible
institutions; and

(E) Completes an information request form under subdivision (b)(3);

(7)(A) Institutions operated solely as auction schools, barber schools, schools of cosmetology, or schools of electrology; provided, that any barber school or school of cosmetology licensed or registered with the board of cosmetology and barber examiners that is eligible for or chooses to seek eligibility for federal student financial aid programs under the Higher Education Act of 1965, as amended (20 U.S.C. §§ 1001-1161aa-1) shall be subject to all requirements of this part;

(B) Any authorization to engage in postsecondary education issued by the board of cosmetology and barber examiners, or any predecessor board, shall be null and of no effect upon the granting of authorization by the commission or after June 30, 2016, whichever is earlier;

(8) Institutions operated solely as schools for the study of law and subject to the approval of the board of law examiners for this state;

(9) Educational programs conducted by state-licensed health care institutions;

(10) Educational instruction that:

(A) Does not lead to a degree;

(B) Is regulated by the federal aviation administration; and

(C) Is offered by a postsecondary educational institution that does not require students receiving the instruction to enter into written or oral contracts of indebtedness;

(11) A nonprofit, regionally accredited educational institution:

(A) Offering online, competency-based education to adult students;

(B) Led by a chief executive or chancellor domiciled in Tennessee; and

(C) With activities and operations limited to the scope of a memorandum of understanding executed with the state of Tennessee in 2013; and

(12) Education offered as intensive review courses designed solely to prepare students for graduate or professional school entrance examinations and professional licensure examinations. For the purposes of this subdivision (a)(12), “professional licensure examinations” includes, but is not limited to:

(A) Certified public accountancy tests;

(B) Examinations for insurance or securities licensure and registration;

(C) Examinations for a professional practice in psychology; and

(D) Bar examinations.

(b)(1) Any postsecondary educational institution exempt from this part by virtue of subdivision (a)(6) or (a)(11) shall lose the exemption upon the occurrence of one (1) of the following events, subject to appeal to the commission as provided at § 49-7-2010:

(A) Loss or failure to meet any of the listed criteria for exemption;

(B) Loss of Title IV federal student aid funding; or

(C) A three-year federal financial aid cohort default rate of thirty percent (30%) or higher for three (3) consecutive years or any single year over forty percent (40%) as reported by the United States department of education, office of postsecondary educational institutional data system.

(2) Any institution deemed to be exempt under subdivision (a)(6) as it existed prior to May 1, 2014, shall continue to be exempt as long as the institution registers with the commission under subdivision (b)(3).
Postsecondary educational institutions that are exempt under subdivision (a)(6) shall annually complete an information request form. The information request form shall be created by the commission and shall require, at a minimum:

(A) The name of a contact person and related information such as an email address and telephone number;

(B) A description of the complaint process used by the postsecondary educational institution and the related complaint contact information;

(C) A brief description of the postsecondary educational institution's activities in Tennessee, including enrollment or recruitment;

(D) The number of Tennessee residents enrolled during the past fiscal year; and

(E) If applicable, documentation demonstrating that the postsecondary educational institution meets the exemption requirements of subdivision (a)(6).

Notwithstanding any provision of this section to the contrary, an institution that has lost its exemption due to the occurrence of one (1) of the conditions listed in subdivisions (b)(1)(A)-(C) shall not be required to reestablish the twenty (20) consecutive year standards in order to regain its exempt status. Instead, the commission shall have the authority to reinstate the exemption once the condition that caused the loss of exemption has, in the opinion of the commission, been remedied.

(d) The commission shall establish and ensure that all postsecondary institutions in this state cooperatively provide for an integrated system of postsecondary education. The general assembly recognizing that any institution meeting the requirements of subdivisions (a)(6) and (11) is established by name as an educational institution and authorized to operate educational programs beyond secondary education, directs the commission to maintain and publish on its website a list of postsecondary educational institutions meeting the requirements of subdivision (a)(6) with its primary campus domiciled in this state or subdivision (a)(11). The commission shall guard against inappropriate and unnecessary conflict and duplication by promoting transferability of credits and easy access of information among institutions.


(a) No entity shall operate in this state a postsecondary educational institution, not exempted from this part, unless the institution has a current and valid authorization from the commission to operate.

(b) Degree-granting postsecondary educational institutions accredited by a regional or national institutional accrediting agency recognized by the United States department of education may apply annually for an eligibility review and an optional expedited authorization by the commission.

(c) Eligibility for optional expedited authorization is available annually to degree-granting postsecondary educational institutions that submit the following documentation to the commission:

(1) Evidence of good-standing and valid institutional accreditation from a regional or national institutional accrediting agency recognized by the United States department of education;

(2) Documentation evidencing an established, clearly articulated, and
comprehensive process for the resolution of consumer complaints;

(3) If the institution is not authorized in this state, documentation evidencing that the institution is authorized or exempt from authorization in the state where it is primarily located;

(4) A signed and notarized application for optional expedited authorization on a form provided by the commission;

(5) If applicable, documentation evidencing all requisite program approvals from other state licensing boards or commissions; and

(6) Documentation evidencing that the institution meets and maintains financial standards and institutional stability acceptable by the accreditor for the purpose of maintaining accreditation or the United States department of education for the purpose of being a Title IV eligible institution.

(d) Upon receipt of an institution’s application, the commission shall conduct a detailed review and verification and, upon satisfactory examination of all submitted documentation, shall issue this annual optional expedited authorization subject to this section.

(e) If the commission, upon review and consideration of the application, determines the applicant is not eligible and fails to meet the optional expedited authorization criteria established in this section, the commission shall notify the applicant of its decision to deny the application and set forth the reasons for the denial in writing.

(f) Issuance of an annual optional expedited authorization shall demonstrate full compliance with the minimum standards established under this part and fulfill all requirements for the institution’s state authorization.

(g) Institutions satisfying the requirements of this section and receiving optional expedited authorization shall not be subject to any other authorization requirements under this part, but shall remain subject to §§ 49-7-2012, 49-7-2013, 49-7-2014, 49-7-2015, 49-7-2016, and 49-7-2018.

(h) To assist the commission with its duty of consumer protection, any institution receiving optional expedited authorization under this section shall:

(1) Timely report to the commission any illegal or unethical conduct by employees, agents, contractors, or third-party service providers related to the delivery of educational programs and services to students, including any corrective action and remedies taken by the institution;

(2) Notify the commission, within five (5) business days, of the following:
   (A) Action by an accrediting agency in regard to the institution’s accreditation status, including revocation, suspension, probation, warning, or similar action;
   (B) Notice of legal action involving the institution, or its parent entity if applicable, and Tennessee students, related to the delivery of educational programming or student or consumer practices, including class action lawsuits;
   (C) Utilization by the institution of a letter of credit or a cash management agreement with the United States department of education;
   (D) Public announcement of investigation by any governmental agency. The institution shall notify the commission whether the investigation is related to the institution’s academic quality, financial stability, or student or consumer practices;
   (E) A change of ownership; or
   (F) A change of institutional director;

(3) Provide any information requested by the commission necessary to
monitor the institution’s eligibility for optional expedited authorization;
(4) Provide complaint resolution policies and procedures to the institution’s students and cooperate with the commission in the investigation or resolution of student complaints; and
(5) Provide the following data, subject to the commission’s requirements:
(A) Student-level data on enrollment and credential attainment;
(B) Job placement data;
(C) Costs of attendance;
(D) Federal student cohort default rates; and
(E) A comprehensive list of all programs offered at the institution.
(i) Optional expedited authorization shall remain available only to those institutions maintaining the eligibility standards required under this section, as submitted in the documentation accompanying the institution’s annual optional expedited authorization application. Optional expedited authorization shall be issued to the owner or governing body of the applicant institution and shall be nontransferable. In the event of a change of ownership, the new owner or governing body must apply for a new authorization to operate as provided for by the commission; failure to do so shall result in termination of the institution’s authorization to operate.
(j) The commission may revoke or make conditional an issued optional expedited authorization for:
(1) Loss of or failure to meet any of the listed criteria for authorization in subsection (c);
(2) Just cause; or
(3) Failure to fulfill the requirements in subsection (h).
(k) Upon the commission’s revocation of any institution’s optional expedited authorization, the institution shall then immediately be subject to all remaining provisions of this part, applicable administrative rules and procedures for issuance of authorization, and shall reapply for commission authorization under § 49-7-2008. Any institution whose optional expedited authorization is revoked by the commission shall be ineligible to reapply for optional expedited authorization for no less than twenty-four (24) months from the date of revocation.
(l) The commission may investigate any signed student complaint involving institutions authorized under this section; however, initial responsibility for the investigation and resolution of complaints shall reside with the institution against which the complaint is made. For complaints not resolved at the institutional level, the commission may investigate and coordinate resolution of any student complaint with the assistance of other government agencies, as necessary.
(m) Institutions receiving optional expedited authorization are subject to the provisions and requirements of the tuition guaranty fund, under § 49-7-2018.
(n) Institutions receiving optional expedited authorization shall be subject to a flat annual fee, as established by the commission. Institutions receiving optional expedited authorization shall not be subject to any other authorization fees under this part.
(o) The commission may develop agency policies and promulgate administrative rules and regulations, as necessary, to effectuate the provisions of this section.
(p) No later than June 30, 2018, the commission shall develop, and make
available on its website, graduation rates and statistics on credential attainment for institutions authorized under this section and a hyperlink to the institutions’ website.

(q)(1) Any person aggrieved by a decision of the commission with respect to denial of, revocation of, or making conditional an optional expedited authorization to operate as provided by subsection (j) shall have the right to a hearing and review of the decision by the commission as provided by this subsection (q).

(2) If, upon written notification of any such action taken by the commission, the aggrieved party desires a hearing and review, the party shall notify the commission, in writing, within ten (10) days after the giving of notice of the action, otherwise the action shall be deemed final.

(3) Upon receiving notice from the aggrieved party, the commission shall fix the time and place for a hearing, and shall notify the aggrieved party of the time and place of the hearing.

(4) At the hearing, the party may employ counsel, shall have the right to hear the evidence upon which the action is based and present evidence in opposition or in extenuation. Any member of the commission may preside except when a clear conflict of interest may be demonstrated.

(5) A decision of the commission following a hearing, or the failure of a party to give written notice of the desire for a hearing and review within ten (10) days, shall be deemed final and subject to the right of judicial review provided in § 49-7-2012. All matters presented by hearing as provided in this subsection (q) shall be acted upon promptly by the commission. The commission shall notify all parties in writing of its decision, which shall include a statement of findings and conclusions upon all material issues of fact, law or discretion presented at the hearing and the appropriate rule, order, sanction, relief, or denial thereof.

(r) Institutions authorized under this section shall develop and make available to the public on the institutions’ websites the most current version of the following information:

(1) Costs of attendance;
(2) Information on whether academic credits attained are transferable to other institutions operating in Tennessee;
(3) Executed articulation and transfer of credit agreements with other institutions operating in Tennessee, if applicable; and
(4) Federal student cohort default rates.

49-7-2102. Part definitions.

As used in this part:

(1) “Agency contract” means an agreement in which a student athlete authorizes a person to negotiate or solicit on behalf of the athlete a professional-sports-services contract or endorsement contract;

(2) “Athlete agent”:

(A) Means an individual, whether or not registered under this part, who:

(i) Directly or indirectly recruits or solicits a student athlete to enter into an agency contract or, for compensation, procures employment or offers, promises, attempts, or negotiates to obtain employment for a student athlete as a professional athlete or member of a professional
sports team or organization or enrollment at any college, university, or community or junior college that offers an athletic scholarship to the student athlete;

(ii) For compensation or in anticipation of compensation related to a student athlete’s participation in athletics:

(a) Serves the athlete in an advisory capacity on a matter related to finances, business pursuits, or career management decisions, unless the individual is an employee of an educational institution acting exclusively as an employee of the institution for the benefit of the institution; or

(b) Manages the business affairs of the athlete by providing assistance with bills, payments, contracts, or taxes; or

(iii) In anticipation of representing a student athlete for a purpose related to the athlete’s participation in athletics:

(a) Gives consideration to the student athlete or another person;

(b) Serves the athlete in an advisory capacity on a matter related to finances, business pursuits, or career management decisions; or

(c) Manages the business affairs of the athlete by providing assistance with bills, payments, contracts, or taxes;

(B) Does not include an individual who:

(i) Acts solely on behalf of a professional sports team or organization; or

(ii) Is a licensed, registered, or certified professional and offers or provides services to a student athlete customarily provided by members of the profession, unless the individual:

(a) Also recruits or solicits the athlete to enter into an agency contract;

(b) Also, for compensation, procures employment or offers, promises, attempts, or negotiates to obtain employment for the athlete as a professional athlete or member of a professional sports team or organization; or

(c) Receives consideration for providing the services calculated using a different method than for an individual who is not a student athlete;

(3) “Athletic director” means the individual responsible for administering the overall athletic program of an educational institution or, if an educational institution has separately administered athletic programs for male students and female students, the athletic program for males or the athletic program for females, as appropriate;

(4) “Certified athlete agent” means an athlete agent registered under this part who is certified to be an athlete agent in a particular sport by a national association that promotes or regulates intercollegiate athletics and establishes eligibility standards for participation by a student athlete in that sport;

(5) “Commission” means the Commission on Interstate Registration of Athlete Agents;

(6) “Educational institution” includes a public or private elementary school, secondary school, technical or vocational school, community college, college, and university;

(7) “Endorsement contract” means an agreement under which a student athlete is employed or receives consideration to use on behalf of the other party any value that the athlete may have because of publicity, reputation,
following, or fame obtained because of athletic ability or performance;

(8) “Enrolled” means registered for courses and attending athletic practice or class. “Enrolls” has a corresponding meaning;

(9) “Intercollegiate sport” means a sport played at the collegiate level for which eligibility requirements for participation by a student athlete are established by a national association that promotes or regulates collegiate athletics;

(10) “Interscholastic sport” means a sport played between educational institutions that are not community colleges, colleges, or universities;

(11) “Licensed, registered, or certified professional” means an individual licensed, registered, or certified as an attorney, dealer in securities, financial planner, insurance agent, real estate broker or sales agent, tax consultant, account, or member of a profession, other than that of athlete agent, who is licensed, registered, or certified by the state or a nationally recognized organization that licenses, registers, or certifies members of the profession on the basis of experience, education, or testing;

(12) “Person” means an individual; estate; business or nonprofit entity; public corporation; government or governmental subdivision, agency, or instrumentality; or other legal entity;

(13) “Professional-sports-services contract” means an agreement under which an individual is employed as a professional athlete or agrees to render services as a player on a professional sports team or with a professional sports organization;

(14) “Record” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form;

(15) “Recruit” or “solicit” means attempt to influence the choice of an athlete agent by a student athlete or, if the athlete is a minor, a parent or guardian of the athlete. The terms do not include giving advice on the selection of a particular agent in a family, coaching, or social situation unless the individual giving the advice does so because of the receipt or anticipated receipt of an economic benefit, directly or indirectly, from the agent;

(16) “Registration” means registration as an athlete agent under this part;

(17) “Sign” means, with present intent to authenticate or adopt a record:

(A) To execute or adopt a tangible symbol; or

(B) To attach to or logically associate with the record an electronic symbol, sound, or process;

(18) “State” means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States; and

(19) “Student athlete” means an individual who is eligible to attend an educational institution and engages in, is eligible to engage in, or may be eligible in the future to engage in, any interscholastic or intercollegiate sport. The term does not include an individual permanently ineligible to participate in a particular interscholastic or intercollegiate sport for that sport.

49-7-2114. Prohibited conduct.

(a) An athlete agent, with the intent to influence a student athlete or, if the athlete is a minor, a parent or guardian of the athlete to enter into an agency
contract, shall not take any of the following actions or encourage any other individual to take or assist any other individual in taking any of the following actions on behalf of the agent:

(1) Give any materially false or misleading information or make a materially false promise or representation;

(2) Furnish anything of value to a student athlete before the student athlete enters into the agency contract; or

(3) Furnish anything of value to any individual other than the student athlete or another registered athlete agent.

(b) An athlete agent shall not intentionally do any of the following or encourage any other individual to do any of the following on behalf of the agent:

(1) Initiate contact, directly or indirectly, with a student athlete or, if the athlete is a minor, a parent or guardian of the athlete, to recruit or solicit the athlete, parent, or guardian to enter an agency contract unless registered under this part;

(2) Fail to create or retain or to permit inspection of the records required by § 49-7-2113;

(3) Fail to register when required by § 49-7-2105;

(4) Provide materially false or misleading information in an application for registration or renewal of registration;

(5) Predate or postdate an agency contract; or

(6) Fail to notify a student athlete or, if the athlete is a minor, a parent or guardian of the athlete, before the athlete, parent, or guardian signs an agency contract for a particular sport that the signing may make the athlete ineligible to participate as a student athlete in that sport.

(c) An athlete agent shall not:

(1) Fail to provide to the secretary of state any statements, documents, records, or testimony required by the secretary of state pursuant to § 49-7-2105 or the Uniform Administrative Procedures Act, compiled in title 4, chapter 5;

(2) Fail to post the athlete agent’s certificate of registration, or legible copy of the certificate, in each office in this state from which the athlete agent conducts business as an athlete agent; or

(3) Fail to provide proof of registration to any student athlete whom the athlete agent contacts.

(d) Notwithstanding subsection (a), a certified athlete agent may pay expenses incurred before the signing of an agency contract by a student athlete, a family member of the student athlete, or an individual of a class of individuals authorized to receive the expenses by the national association that certified the agent if the expenses are:

(1) For the benefit of an athlete who is a member of a class of athletes authorized to receive the benefit by the national association that certified the agent;

(2) Of a type authorized to be paid by a certified athlete agent by the national association that certified the agent; and

(3) For a purpose authorized by the national association that certified the agent.
49-7-2205. Compilation of crime statistics — Distribution of annual report.

(a) The director of the Tennessee bureau of investigation shall compile the crime statistics reported pursuant to § 49-7-2203(a), and shall provide an annual report by April 30 of the statistics to the governor and to the state and local government and education committees of the senate and the state government and education committees of the house of representatives.

(b)(1) The crime statistics shall also include crime data compilations, where available, for crimes against the students of institutions of higher education that are committed within the county where the school is located. The information shall be taken from incidence/complaint report forms used by state, county and municipal law enforcement agencies that are submitted pursuant to § 38-10-102, or voluntarily for purposes of this part. Such incidence/complaint report forms shall, when applicable, indicate whether the victim is a student attending an institution of higher education that is located in the county in which the crime occurred and the name of the school attended by the student.

(2) The crime statistics shall specifically include crime data compilations for crimes involving the unlawful possession or sale of controlled substances and controlled substance analogues.

49-7-2701. Establishment and operation of clinical and dispensary programs in speech pathology, speech therapy and audiology in state colleges and universities.

(a) Notwithstanding any other law to the contrary, state public colleges and universities are permitted to establish and operate clinical and dispensary programs in speech pathology, speech therapy and audiology for the purpose of educating students and generating financial support necessary to operate and make necessary improvements to those programs.

(b) It is not the intent of the general assembly for such programs to compete directly with private hearing device retailers. Hearing centers operated and governed by public institutions of higher education shall not expand to operate satellite centers for the purpose of selling hearing aids, and shall not advertise the sale of hearing aids through any form of mass media, including, but not limited to, newspapers, magazines, billboards, phone directories, television, radio or Internet, or through mass mailings, either printed or electronic. Such clinics and programs are permitted to receive patient referrals, to treat patients wishing to receive services from the college or university and to dispense hearing aids to such patients.

(c) Each public institution of higher education operating a hearing center shall, by September 15 of each year, provide a written report to the Tennessee higher education commission and the education committee of the senate and the education committee of the house of representatives. The report shall contain the following information relative to the prior year:

1. The number of patients served;
2. The number of patient-contact hours for which students received credit;
3. The number of billed patient hours;
4. The number of hearing aids dispensed to patients; and
5. The revenues from clinical and dispensing operations.
49-8-111. Powers regarding property.

(a) Every college and university is authorized and empowered to sell or convey any lot, plot or tract of land that has been acquired through purchase, gift, devise or by any other means; provided, that:

(1) The land is unsuitable for use by the college or university at present or in the future, or not needed by the college or university;
(2) The state building commission approves of the sale or conveyance; and
(3) The college or university obtains certified appraisals of the land from two (2) recognized real estate appraisers in the locality of the college or university.

(b) The receipts from the sale or conveyance shall be deposited in the capital outlay fund of the selling college or university.

(c) Subsections (a) and (b) do not apply to the University of Tennessee system.

(d) (1) The board of regents is authorized to sell, upon approval of the state building commission, property which has been acquired for use by the central office of the board. The proceeds from the sale may be used as the board determines; provided, that the use shall be for purposes that are long term and nonrecurring in nature and that are otherwise permitted by law.

(2) Funds shall only be expended pursuant to this subsection (d) if the expenditure is approved by the education committee of the senate and the education committee of the house of representatives.

49-8-117. Support staff — Grievance procedure.

(a)(1) The board of regents, each state university board, and the University of Tennessee shall establish a grievance procedure for all support staff employees.

(2) “Support staff” means employees who are neither faculty nor executive, administrative, or professional staff of any institution or board subject to this chapter and the University of Tennessee.

(3) Support staff shall be given every opportunity to resolve bona fide grievances through the grievance procedure. Every reasonable effort shall be made to resolve grievances at the lowest possible step in the procedure.

(4) Employees using or involved in the grievance procedure shall be entitled to pursue their grievances without fear, restraint, interference, discrimination or reprisal.

(b)(1) A grievance must be filed at the appropriate step in the grievance procedure within fifteen (15) working days after the employee receives notice or becomes aware of the action that is the basis for the grievance.

(2) “Grievance” means a complaint about one (1) or more of the following matters:

(A) Demotion, suspension without pay or termination for cause; or
(B) Work assignments or conditions of work that violate statute or policy.

(3) Any complaint about demotion, suspension without pay or termination for cause shall receive a hearing covered under the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, part 3. In issues involving unlawful discrimination and harassment, the employee may choose a hearing under that act or the panel hearing.

(4) Standard grievance forms shall be developed and made available to support staff at each worksite. No grievance may be denied because a
(5) The grievance procedure shall include no more than four (4) steps to finality.

(6) The grievance procedure shall include the opportunity for a face-to-face meeting within fifteen (15) days after the grievance is filed, and within fifteen (15) days after each subsequent step in the procedure is initiated.

(7) The grievant shall receive a written decision with specific reasons stated for the decision within fifteen (15) working days after a face-to-face meeting occurs.

(8) The grievant and any material witnesses shall be allowed to testify fully at every step in the grievance procedure.

(9) The grievance procedure shall include an unbiased commission or panel as the final step for processing grievances regarding work assignments or conditions of work not otherwise covered in subdivision (b)(3). The decision of the panel is subject to review by the president.

(10) At every step in the grievance procedure other than a Uniform Administrative Procedures Act hearing, the grievant shall be entitled to be accompanied and represented by an employee representative from the institution. Other employee representatives may be allowed at the panel hearing at the discretion of the panel chair.

(c) The board of regents, each state university board, and the board of trustees of the University of Tennessee shall provide an annual report to the education committee of the senate and the education committee of the house of representatives summarizing grievance activities of the previous year.

(d) Each institution shall include information regarding the grievance procedure in employee orientations.

**49-8-203. Powers and duties.**

(a)(1) With respect to the institutions they govern, each state university board and the board of regents has the power to:

(A) Select and employ the chief executive officers of the institutions and to confirm the appointment of administrative personnel, teachers, and other employees of each state institution and to fix their salaries and terms of office;

(B) Prescribe curricula and requirements for diplomas and degrees. The board of regents and the state university boards shall maintain alignment across state higher education by working to develop curricula requirements that promote student success, postsecondary completion, and advancement of the Tennessee higher education commission state master plan;

(C) Approve the operating budgets and set the fiscal policies for the schools and programs under its control. Each state university board shall have the power to approve the operating budget and set the fiscal policy for the university under its control. In order to ensure the ability to satisfy both contractual obligations to the Tennessee state school bond authority and obligations to that authority’s bondholders, the board of regents shall have authority over, and shall give final approval to, the operating budget of each state university. The funds appropriated for each state university shall initially be distributed by the department of finance and administration to the board of regents, which shall then distribute such funds to
each state university in such amounts as were appropriated minus any deduction or deductions required to be made by the board of regents pursuant to any financing agreement, or other similar agreement, then existing by and between the board of regents and the Tennessee state school bond authority or any successor organization. Notwithstanding any provision of law, the board of regents shall retain all powers and duties with respect to each state university, state community college, and Tennessee college of applied technology, including, but not limited to, any projects at such institutions which are necessary for the board of regents to fulfill its covenants, representations, agreements, and obligations under any financing agreement, then existing by and between the board of regents and the Tennessee state school bond authority, or any successor organization, on July 1, 2016, as the same may be amended pursuant to the terms thereof, or any successor or similar agreement subsequently entered into by and between the board of regents and the Tennessee state school bond authority;

(D) Establish policies and regulations regarding the campus life of the institutions, including, but not limited to, the conduct of students, student housing, parking, and safety; and

(E) Assume general responsibility for the operation of the institutions, delegating to the chief executive officer of each respective institution such powers and duties as are necessary and appropriate for the efficient administration of the institution and its programs.

(2) The board of regents has the power to receive donations of money, securities, and property from any source on behalf of the community colleges and the Tennessee colleges of applied technology, which gifts shall be used in accordance with the conditions set by the donor. Each state university board has the power to receive donations of money, securities, and property from any source on behalf of the institution it governs, which gifts shall be used in accordance with the conditions set by the donor.

(3) The board of regents and each state university board has the power to purchase land subject to the terms and conditions of state regulations, to condemn land, to erect buildings, and to equip them for the institution subject to the requirements of the state building commission and to the terms and conditions of legislative appropriations. Each board shall be vested with title to property so purchased or acquired.

(4) The board of regents and each state university board has other powers, not otherwise prescribed by law, that are necessary to carry out this part, and it is the expressed legislative intent and purpose to vest similar and comparable responsibility and authority in each board as is authorized for the board of trustees of the University of Tennessee; provided, that in exercising any power to borrow money for any purpose, whether by the issuance of bonds or notes or by any other method, each board shall first secure the approval of the state school bond authority.

(b) Notwithstanding any other law, the board of regents, a state university board, or any institution subject to this chapter is not authorized to borrow money for any purpose, whether by the issuance of bonds or notes or by any other method, without first securing the approval of the state school bond authority.

(c) State university boards shall manage and initiate capital and real estate transactions; provided, that such transactions are within the scope of a master
plan approved by the Tennessee higher education commission.

(d) The title of the property held on behalf of the state universities named in § 49-8-101(a)(2)(A) by the board of regents shall be transferred to the respective state university board upon assumption of responsibility no later than June 30, 2017.

(e) A state university board shall ensure the board’s institution remains in compliance with the transfer and articulation provisions of § 49-7-202.

(f) The board of regents, the state university boards, and the institutions subject to this chapter shall not enter into any final agreement or other final arrangement for a merger or consolidation with a private institution of higher education without the authorization of the general assembly, acting through legislation, resolution, or appropriations.

(g) It is unlawful for any member of a state university board or the board of regents to be financially interested in any contract or transaction affecting the interests of any institution governed by the board, or to procure, or be a party in any way to procuring, the appointment of any relative to any position of financial trust or profit connected with the universities and colleges governed. A violation of this subsection (g) shall subject the member so offending to removal by the governor or the board.

(h) Except for the purposes of inquiry or information, a member of the state university board shall not give direction to or interfere with any employee, officer, or agent under the direct or indirect supervision of the chief executive officer of the respective institution.

(i) Each institution subject to this chapter shall provide data to the Tennessee higher education commission for information, assessment, and accountability purposes, to be used in a statewide data system that facilitates the public policy agenda developed by the commission. The commission shall determine the data elements necessary to carry out this task.

(j) Notwithstanding any provision of this part or any law to the contrary, the state university boards and their respective institutions shall continue to be participating employers in the Tennessee consolidated retirement system and utilize such claims administration services, risk management programs, investment funds and trusts, and retirement and deferred compensation programs, or any successor programs and services in the same fields, as are provided or administered by the department of treasury to any of the state universities on the effective date of the act until the effective date of any subsequent legislation authorizing procurement from another provider.

(k) Institutions shall ensure that any data system employed for student information is interoperable with the statewide student information system used by the board of regents and the higher education commission.

(l) Each institution subject to this chapter shall make a report annually to the higher education commission on any academic program terminations which shall be submitted by the higher education commission to the education committee of the senate and the education committee of the house of representatives.

(m) Upon formal request by the higher education commission, the board of regents and each state university board authorized under this chapter shall assist the commission in convening representatives of the institutions and governing boards, as authorized by § 49-7-202(p), to help ensure a cohesive and coordinated system of higher education public policy in Tennessee.
49-8-802. Center on Aging — Victimization prevention program.

(a) There is established, within Tennessee State University’s Center for Aging, an extension of the center’s program on the prevention and treatment of elderly abuse, neglect and criminal victimization. The program shall, upon request, receive technical assistance and support from the commission on aging and disability and the departments of human services, health, mental health and substance abuse services, and intellectual and developmental disabilities. The program shall:

(1) Collect data to quantify and document the problems of elderly abuse, neglect and criminal victimization;

(2) Engage in prevention activities through presentations at churches, community centers, schools, senior citizen centers and other locations;

(3) Conduct workshops for local and state employees and law enforcement personnel as well as for the elderly and their family members; and

(4) Implement an advocacy program to assist victims in adequately and appropriately responding to and recovering from abuse, neglect and criminal victimization.

(b) The program shall be implemented in Davidson and Wilson counties.

(c) On or before December 31 of each year, a report shall be submitted to the governor and to each member of the general assembly. The report shall document implementation, activities and accomplishments of the program and shall include findings and recommendations pertaining to the prevention and treatment of elderly abuse, neglect and criminal victimization.

49-9-114. Support staff — Grievance procedure.

(a) (1) The board of regents, each state university board, and the University of Tennessee shall establish a grievance procedure for all support staff employees.

(2) “Support staff” means employees who are neither faculty nor executive, administrative, or professional staff of any institution or board subject to this chapter and the University of Tennessee.

(3) Support staff shall be given every opportunity to resolve bona fide grievances through the grievance procedure. Every reasonable effort shall be made to resolve grievances at the lowest possible step in the procedure.

(4) Employees using or involved in the grievance procedure shall be entitled to pursue their grievances without fear, restraint, interference, discrimination or reprisal.

(b) (1) A grievance must be filed at the appropriate step in the grievance procedure within fifteen (15) working days after the employee receives notice or becomes aware of the action that is the basis for the grievance.

(2) “Grievance” means a complaint about one (1) or more of the following matters:

(A) Demotion, suspension without pay or termination for cause; or

(B) Work assignments or conditions of work that violate statute or policy.

(3) Any complaint about demotion, suspension without pay or termination for cause shall receive a hearing covered under the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, part 3. In issues involving unlawful discrimination and harassment, the employee may choose a hearing under that act or the panel hearing.
(4) Standard grievance forms shall be developed and made available to support staff at each worksite. No grievance may be denied because a standard form has not been used.

(5) The grievance procedure shall include no more than four (4) steps to finality.

(6) The grievance procedure shall include the opportunity for a face-to-face meeting within fifteen (15) days after the grievance is filed, and within fifteen (15) days after each subsequent step in the procedure is initiated.

(7) The grievant shall receive a written decision with specific reasons stated for the decision within fifteen (15) working days after a face-to-face meeting occurs.

(8) The grievant and any material witnesses shall be allowed to testify fully at every step in the grievance procedure.

(9) The grievance procedure shall include an unbiased commission or panel as the final step for processing grievances regarding work assignments or conditions of work not otherwise covered in subdivision (b)(3). The decision of the panel is subject to review by the president.

(10) At every step in the grievance procedure other than a Uniform Administrative Procedures Act hearing, the grievant shall be entitled to be accompanied and represented by an employee representative from the institution. Other employee representatives may be allowed at the panel hearing at the discretion of the panel chair.

(c) The board of regents, each state university board, and the board of trustees of University of Tennessee shall provide an annual report to the education committee of the senate and the education committee of the house of representatives summarizing grievance activities of the previous year.

(d) Each institution shall include information regarding the grievance procedure in employee orientations.

49-10-102. Chapter definitions.

As used in this chapter:

(1) “Child with a disability” means a child between three (3) and twenty-one (21) years of age, both inclusive, who has been evaluated and determined as having a state-identified disability in accordance with the rules and regulations of the state board of education or as having one (1) or more of the
following disabilities, as defined in 34 CFR 300.8: an intellectual disability; a hearing impairment, including deafness; a speech or language impairment; a visual impairment, including blindness; emotional disturbance; an orthopedic impairment; autism; traumatic brain injury; other health impairment; a specific learning disability; developmental delay; deaf-blindness; or multiple disabilities, and who, by reason thereof, needs special education and related services. Any child with a disability who turns twenty-two (22) years of age between the commencement of the school year and the conclusion of the school year continues to be a child with a disability for the remainder of that school year;

(2) “Department” means the department of education;

(3) “FAPE” means a free appropriate public education in compliance with the IDEA;

(4) “IDEA” means the Individuals with Disabilities Education Act (20 U.S.C. § 1400 et seq.);

(5) “Individualized education program team” or “IEP team” means a group of individuals described in 34 CFR § 300.321 that is responsible for developing, reviewing, or revising an individualized education program (IEP) for a child with a disability;

(6) “LEA” means a local education agency;

(7) “Related services” means:

(A) Transportation and such developmental, corrective, and other supportive services required to assist a child with a disability to benefit from special education, including speech-language pathology and audiology services; interpreting services; psychological services; physical and occupational therapy; transition services, including job placement; recreation, including therapeutic recreation; early identification and assessment of disabilities in children; counseling services, including rehabilitation counseling with a focus on career development, employment preparation, achieving independence, and integration in the workplace and community of a child with a disability; orientation and mobility services; and medical services for diagnostic or evaluation purposes;

(B) School health services and school nurse services, social work services in schools, and parent counseling and training; or

(C) Other services that may be approved by the state board of education; and

(8) “Special education” means specially designed instruction, at no cost to the parents, to meet the unique needs of a child with a disability, including instruction conducted in the classroom, home, hospitals, institutions, and other settings, and instruction in physical education.

49-10-103. Entitlement to FAPE — Responsibilities of LEA — Education in least restrictive environment.

(a) Every child with a disability is entitled to a FAPE.

(b) Each LEA is responsible for ensuring that every child with a disability receives special education and related services designed to meet the child’s unique needs.

(c) A child with a disability must be educated in the least restrictive environment. Special classes, separate schooling, or other removals of a child with a disability from the regular educational environment must occur only
when, and to the extent that, the student’s IEP team determines that the nature or severity of the child’s disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily. To the maximum extent appropriate, a child with a disability must be educated alongside the child’s typically-developing peers.

49-10-104. Division of special education.

(a) There is established in the department of education a division of special education.

(b) The division shall be headed by an assistant commissioner, who shall be qualified by education, training and experience to take responsibility for, and give direction to, the programs of the department relating to children with disabilities.

(c) [Deleted by 2019 amendment.]

(d)(1) The assistant commissioner who heads the division shall be appointed by the commissioner.

(2) Recommendations of individuals deemed qualified for this position may be made by the advisory council for the education of students with disabilities described in § 49-10-105.

(e) The department shall enforce the IDEA and the state’s special education laws.

49-10-106. Adoption of standards or qualifications for teachers and other personnel — Adoption of evaluation procedures and eligibility criteria for children with disabilities — Cooperation.

The state board of education, in consultation with the department of education, is authorized to take necessary action in the area of special education to:

(1) Adopt standards or qualifications for teachers and other personnel providing instruction or other educational services to children with disabilities;

(2) Adopt the evaluation procedures and eligibility criteria for children with disabilities; and

(3) Cooperate with other state agencies, organizations, and institutions that are concerned with the health, education, and welfare of children with disabilities.

49-10-107. Contracts between LEAs to provide services for children with disabilities.

(a) Nothing in this chapter prevents an LEA from providing special education or related services for children with disabilities by contracting with another LEA to provide services for children with disabilities from the other LEA.

(b) The LEA in which the child is enrolled shall continue to be responsible for ensuring that the child receives special education and related services in accordance with the IDEA and nothing in this chapter relieves the LEA from having to comply with the requirements of this chapter.

(c) Agreements or contracts made pursuant to subsection (a) must be in
writing and may include the provision of special education and related services, payment of reasonable costs of providing special education and related services, or other related costs.

d) Any child provided special education or related services through an agreement made pursuant to subsection (a), and any parent or legal guardian of the child, retain all civil and other rights that the child would have if receiving special education or related services in the LEA where the child is enrolled. Any agreement or contract made pursuant to subsection (a) must contain a provision to that effect.

49-10-108. Identification, location, and evaluation of children with disabilities.

(a) Every LEA shall identify, locate, and evaluate all children with disabilities, or who are suspected of having a disability, within its boundaries, ages three (3) through twenty-one (21), both inclusive, who need special education and related services, including all children with disabilities who are enrolled by their parents in private schools located within the boundaries of the LEA.

(b) A parent or legal guardian may request the LEA to conduct a full and individualized evaluation of the parent's or legal guardian's child to determine if the child has a disability and is eligible for special education services.

(c) The identification, location, and evaluation of children with disabilities must be conducted in accordance with the IDEA, the state's special education laws, and the state board of education's rules.

49-10-109. Withholding of BEP funding for special education.

(a)(1) If an LEA is found by the commissioner of education to have failed to provide a FAPE to all children with disabilities who by law are entitled to receive a FAPE from the LEA, then the commissioner may withhold all or any portion of the basic education program (BEP) funding for the LEA as, in the commissioner's judgment, is warranted.

(2) The denial of BEP funding under subdivision (a)(1) may continue until the failure to provide the required special education or related services is remedied.

(3) Whether or not the commissioner elects to withhold BEP funding pursuant to subdivision (a)(1), the commissioner shall ensure the provision of a FAPE, and may do so by providing the education directly.

(b) The commissioner shall not take action pursuant to subsection (a) until after providing a public hearing with due notice and preserved on a record that establishes the failure of the LEA to provide special education or related services of an adequate quantity and quality.

(c) Any costs incurred by the department in administering this section are direct charges against the LEA and must be paid by the LEA. If an LEA fails to make timely payment, then the department may make the payment and obtain reimbursement from the LEA through the appropriate judicial proceedings.

(d)(1) When the commissioner is providing special education or related services pursuant to this section, it is the commissioner's purpose to assist the LEA in assuming or reassuming the LEA's full responsibilities for providing education for children with disabilities.
(2) No BEP funding for special education shall be given to an LEA during, or for, any period for which the LEA’s provision of special education is being administered directly by the commissioner on behalf of the LEA pursuant to this section.

(3) The commissioner shall return responsibility for providing F APE to the LEA as soon as the commissioner finds that the LEA is willing and able to fulfill its responsibilities pursuant to law.

49-10-110. [Repealed.]

49-10-111. [Repealed.]

49-10-113. Special education funds from state — Process for LEAs to request reimbursement for high-cost children with disabilities.

(a) The state shall provide special education funds from the basic education program (BEP), in accordance with title 49, chapter 3, to LEAs and other entities entitled by the laws of this state to receive the funds for providing special education and related services to children with disabilities.

(b)(1) Subject to the availability of federal funds, the department shall establish a process for LEAs to request reimbursement for high-cost children with disabilities.

(2) An LEA shall include qualifying services provided to children with disabilities in each public school in the LEA, including charter schools authorized by the LEA, in the LEA’s annual request for high-cost reimbursement.

(3) An LEA shall provide to charter schools authorized by the LEA applicable high-cost reimbursement funds received by the LEA for any qualifying special education expenditures incurred directly by the charter school.

49-10-114. Individualized education programs for children with disabilities.

(a) Special education and related services must be determined by the child’s individualized education program (IEP) team based on the individual needs of the child.

(b) Except when a written explanation to the contrary is included, the IEP of a child with a disability must include:

(1) Pre-vocational assessments for students in kindergarten through grade six (K-6), inclusive, or students of comparable chronological age; and

(2) Age-appropriate transition assessments to include, at a minimum, education, training, and employment for students age fourteen (14) and older.

49-10-115. Annual submission of information by LEAs — Annual report by department of education.

(a) Each LEA shall annually submit to the department, at a minimum, the following information in accordance with the department’s guidelines:

(1) A census of children with disabilities showing the total number and distribution of children within the LEA’s jurisdiction who are provided
special education and related services;

(2) An assurance that IDEA funds will be used to supplement, and not to supplant, state and local funds, and will be expended only for the excess cost of providing special education and related services to children with disabilities;

(3) An assurance that, to the maximum extent appropriate, children with disabilities are educated with children without disabilities;

(4) A detailed budget and end of the year report of expenditures of all funds available to provide special education and related services; and

(5) An assurance that a FAPE is available to all children with disabilities between the ages of three (3) and twenty-one (21), inclusive, including children who reach twenty-two (22) years of age during the school year and children who have been suspended or expelled for more than ten (10) school days in a school year.

(b) The department shall annually report on the department’s website, at a minimum, the following information:

(1) The number and percentage of children with disabilities in this state;

(2) The number and percentage of children with disabilities, disaggregated by disability category;

(3) The participation and performance of children with disabilities on state assessments; and

(4) Other performance indicators for children with disabilities.

(c) The report created by the department of education pursuant to this section must exclude any personally identifiable information and must be created in accordance with the Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. § 1232g), § 10-7-504, and any other relevant state or federal privacy law.

49-10-116. Adoption of rules and regulations permitting LEAs or charter schools to form special education cooperatives.

(a) The department shall develop, and the state board of education shall adopt, rules and regulations permitting LEAs or charter schools to form special education cooperatives to provide special education and related services to children with disabilities within the boundaries of LEAs or charter schools participating in such a cooperative.

(b) The rules developed under this section must be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, and must include, at a minimum:

(1) The process for establishing a cooperative;

(2) Requirements for approval and monitoring of cooperatives;

(3) Requirements for a written agreement between the parties participating in the cooperative;

(4) Governance of the cooperative;

(5) The manner of financing the cooperative;

(6) Staffing requirements of the cooperative;

(7) Specific procedures for the withdrawal of member LEAs or charter schools from the cooperative; and

(8) Specific procedures for the termination of a cooperative.

(c) A child receiving special education or related services through a special education cooperative remains the responsibility of the LEA in which the child
is enrolled, and nothing in this section relieves the LEA from having to comply with the requirements of this chapter.

49-10-201. [Repealed.]

49-10-202. [Repealed.]

49-10-203. [Repealed.]

49-10-204. [Repealed.]

49-10-205. [Repealed.]

49-10-206. [Repealed.]

49-10-207. [Repealed.]

49-10-208. [Repealed.]

49-10-209. [Repealed.]

49-10-301. [Repealed.]

49-10-302. [Repealed.]

49-10-303. [Repealed.]

49-10-304. [Repealed.]

49-10-305. [Repealed.]

49-10-306. [Repealed.]

49-10-401. [Repealed.]

49-10-402. [Repealed.]

49-10-403. [Repealed.]

49-10-404. [Repealed.]

49-10-405. [Repealed.]

49-10-406. [Repealed.]

49-10-501. [Repealed.]


(a) The department shall establish, maintain, and implement procedural safeguards that meet the requirements of the IDEA related to the following:

(1) Independent educational evaluations;
(2) Prior written notice;
(3) Parental consent;
(4) Access to and confidentiality of education records;
(5) State complaint and dispute resolution procedures and forms;
(6) The availability of mediation;
(7) Procedures when disciplining children with disabilities;
(8) Requirements for unilateral placement by parents of children in private schools at public expense;
(9) Advocacy services; and
(10) Free and low cost legal services.

(b) A copy of the procedural safeguards must be made available to the parents of a child with a disability one (1) time each school year; provided, however, that a copy must also be provided:
   (1) Upon initial referral or parent request for evaluation;
   (2) Upon receipt of the first state or due process complaint in a school year;
   (3) On the date on which the decision is made to make a removal that constitutes a change of placement of a child with a disability because of a violation of a code of student conduct; and
   (4) Upon request by a parent.

(c) The department shall maintain a current copy of the procedural safeguards on its website.

49-10-602. No limitation on right of enforcement by child’s parent or guardian — No delay in provision of services.

Nothing in this chapter limits any right that any child or the child’s parent or guardian may have to enforce the provision of any regular or special educational service. LEAs shall not delay the provision of education or related services to which a child is entitled.

49-10-603. [Repealed.]

49-10-604. Investigation of complaints — Administrative complaint process.

The department of education shall promptly investigate complaints alleging violations of the IDEA and the state’s special education laws in the following manner:

(1) The department shall make a complaint form available on the department’s website. The department shall also supply any individual with a written copy of the complaint form via the United States postal service upon request. The department shall facilitate the submission of complaint forms via the internet. If a complaint is filed via the internet, then the complaint is deemed to be signed so long as the name of the filer is indicated in the complaint. Anonymous complaints cannot be accepted for investigative purposes;

(2) The department shall notify an LEA of a complaint filed against the LEA within five (5) calendar days of receiving the complaint. The notification must require the LEA to respond to the allegations contained in the complaint and to provide the department with any additional information requested by the department. The LEA must provide its response to the department no later than fifteen (15) calendar days from the date of the
notification, unless an extension is granted by the department;

(3) If the department determines that the LEA has committed a violation of state or federal special education laws or rules, then the department shall issue, within ten (10) calendar days, the department’s findings that confirm the violation to the LEA and the person making the complaint. The written findings must require the LEA to take all corrective action required by the department that are contained in the written findings, which may include providing compensatory education if deemed appropriate by the department;

(4) The department shall require an LEA that has committed a violation of applicable law or rule to correct the violation within ten (10) calendar days, unless an extension is granted by the department;

(5) Any LEA receiving notice from the department that measures are required to correct a violation of applicable law or rule shall provide written notice of the completion of the corrective measures to the department and to the person making the complaint. The department shall determine whether the measures taken by the LEA resulted in compliance with the applicable law or rule, or both. The department shall provide written notice to the LEA of the department’s determination within ten (10) calendar days; and

(6) Within thirty (30) calendar days after closing the investigation, the department shall publish all violations and determinations confirmed by the department on the department’s official website. The publication must include the name of the LEA, a description of the violation, a citation of the law or rule determined to have been violated, the corrective measures proposed by the LEA, and the final determination of the department. The department shall publish confirmed violations and determinations in a manner that protects the identity of the student.

49-10-605. Mediation process.

(a) The department shall ensure that procedures are established and implemented to allow parties to resolve a dispute on matters related to a proposal or a refusal to initiate or change the identification, evaluation, or educational placement of a child with a disability, or the provision of a FAPE to the child, through a mediation process.

(b) In addition to the requirements set forth in the IDEA, the procedures must ensure that the mediation process:

1. Is voluntary on the part of the parties;

2. Is not used to deny or delay a parent’s right to a due process hearing or to deny any other rights afforded under state or federal law; and

3. Is conducted by a qualified and impartial mediator who is trained in effective mediation techniques.

(c) All special education mediations shall be conducted by mediators who have been trained in accordance with Tennessee Supreme Court Rule 31 requirements and who are employed by or contracted by the secretary of state.

(d) The mediators who conduct special education mediations shall receive legal training in special education law.

(e) All parties shall participate in mediation in good faith.

49-10-606. Conducting special education due process cases.

(a) Special education due process cases shall be heard by administrative law judges employed by the secretary of state. In addition, the secretary of state
may contract with no more than three (3) administrative law judges who are currently serving under an appointment by the department of education to hear special education due process cases, to serve as part-time administrative law judges to hear special education due process cases. Administrative law judges shall have jurisdiction to hear complaints arising under the federal Individuals with Disabilities Education Act (20 U.S.C. § 1400 et seq.), and state special education laws.

(b) The administrative law judges assigned to hear special education due process cases shall receive training in special education law to comport with the requirements of 20 U.S.C. § 1415. Before hearing any special education due process cases, an administrative law judge shall receive intensive training in special education law. After receipt of this initial training, all administrative law judges hearing special education due process appeals shall undergo annual training in special education law.

(c) All training in special education law for the administrative law judges provided for in this part must be approved by the administrative office of the courts in consultation with the department of education. The training must be paid for by the department of education.

(d) The LEA shall provide a photocopy of all of the education records of the student in question within its control according to orders issued by the administrative law judges, but in no case later than ten (10) school days following the failure to resolve the dispute following the federal resolution process or mediation between the parties.

(e) Final orders in special education cases shall include detailed findings of fact and conclusions of law. The findings of fact shall include a determination by the administrative law judge regarding meaningful participation by the parent in the development of the individualized education plan (IEP) for the student.

(f) Final orders include a determination of prevailing party status on an issue by issue basis.

(g) Administrative law judges shall provide a written final order signed by the judge. Final orders shall also be provided on electronic data disc or via electronic mail at the request of any party.

(h) An administrative law judge shall render a decision within the timelines established by federal law, unless the parties request an extension of time to attempt mediation or in the event of extraordinary circumstances determined acceptable by the administrative law judge.

(i) All decisions regarding special education due process hearings shall be published on the official state web site of the department of education. All student identifying information shall be excised from the publication.
49-10-701. [Repealed]

49-10-702. Statewide early intervention program for infants and toddlers with disabilities and their families.

(a) The state shall establish and implement a statewide early intervention system to ensure that all infants and toddlers in the state, from birth through two (2) years of age, inclusive, with disabilities who may have a developmental delay or a diagnosed disability are identified and evaluated.

(b) The early intervention system established under subsection (a) shall be a system of coordinated, comprehensive, and multidisciplinary interagency programs for infants and toddlers with developmental delays or disabilities and their families and must include all components prescribed by the IDEA.

49-10-801. [Repealed]

49-10-802. [Repealed]

49-10-803. [Repealed]

49-10-901. [Repealed]

49-10-902. [Repealed]

49-10-903. [Repealed]

49-10-1001. [Repealed]


(a)(1) The department of education is designated the state board for career and technical education and, as such, is authorized and empowered to accept on behalf of the state all acts of congress pertaining to career and technical education.

(2) The state board for career and technical education is designated the sole agency of the state for administering career and technical education programs in cooperation with LEAs and the federal government and its agencies and is authorized and empowered to make agreements with the federal government and local governmental units that may be deemed necessary to participate in federal career and technical education funding.

(3) The state board for career and technical education shall develop policies and guidelines for cooperative career and technical training programs that provide school-supervised and school-administered work experience and career exploration for students. The policies and guidelines shall comply with all state laws and federal laws and regulations concerning the employment of minors, but shall not be more restrictive concerning the
employment of minors than those laws and regulations.

(b) Notwithstanding any other law to the contrary, the board of regents is solely responsible for administering career and technical programs in the colleges governed by the board of regents, and is authorized and empowered to make agreements with the federal government and local government units that may be deemed necessary to participate in career and technical funding programs for which the department of education has not been designated as the sole state agency authorized to receive federal funds.


(a) The department of education shall, subject to available funds, administer an occupational educator scholarship program for prospective educators seeking a Tennessee occupational teaching license.

(b) To be eligible for an occupational educator scholarship, a prospective educator, in accordance with the rules promulgated under subsection (c), must:

(1) Be a Tennessee resident for one (1) year immediately preceding the date of application for a scholarship;

(2) Apply for an occupational educator scholarship;

(3) Be admitted to an eligible educator preparation program;

(4) Agree to teach occupational career and technical education courses in a Tennessee public school for a specified time; and

(5) Agree to repay the scholarship according to a repayment schedule if the prospective educator does not fulfill the requirements of subdivision (b)(4), unless it is impossible for the prospective educator to fulfill the requirements of subdivision (b)(4) because of the prospective educator's death or permanent disability.

(c) The department shall recommend, and the state board of education shall promulgate, rules for the administration and management of the occupational educator scholarship program. The rules must establish the maximum aggregate amount of the scholarship and the eligibility requirements for receiving and maintaining a scholarship under this section. The rules must be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

49-11-104. Career and technical education in grades six through twelve.

(a)(1) It is the intent of the general assembly that comprehensive career and technical education be made available by the state and local education agencies in grades six through twelve (6-12).

(2) The program shall be made accessible to students in grades six through twelve (6-12) and planned to serve at least fifty percent (50%) of the students in grades six through twelve (6-12).

(b)(1) All capital costs and operating costs of the programs developed under this section shall be borne by the state, to the extent that appropriations are made for the programs.

(2) The operation of the facilities shall be by local boards of education or as joint facilities by two (2) or more local systems.

(3) Appropriate counseling shall be made available in grades six (6), seven (7), and eight (8).

(4) The acquisition of necessary land, the construction or acquisition of adequate facilities and equipment and the training of an adequate number
of career and technical instructors and counselors shall proceed as rapidly as possible after needs are determined in order to carry out the intent expressed in subsection (a).

(5) Counseling shall be provided in grades six through twelve (6-12) at the ratio of one (1) counselor for two hundred (200) students, with special competence in career and technical guidance including some practical experience.

(6) In the selection of career and technical instructors, some practical experience shall be considered an essential qualification.

(c) After each county, including city and special school districts, is surveyed, facilities shall be planned by the board of career and technical education for comprehensive career and technical training for high school and post high school students in accordance with one (1) of the following alternatives:

(1) **Comprehensive High Schools.** Facilities will be utilized or expanded, or both, in school systems where schools have been consolidated sufficiently to provide comprehensive high schools for a minimum of about one thousand five hundred (1,500) students;

(2) **State Colleges of Applied Technology.** Facilities will be utilized or expanded, or both, in state colleges of applied technology, where properly located, to provide comprehensive high school career and technical training;

(3) **Career and Technical Training Centers.** In counties, including city and special school districts, with two (2) or more high schools, where students cannot be served under subdivision (c)(1) or (c)(2), a career and technical training center will be established separate from any existing school;

(4) **Joint Facilities.** Where practicable, and where school systems may not be served adequately by any of the alternatives in subdivisions (c)(1)-(3), joint facilities may be established and operated to serve two (2) or more counties or school systems, or both;

(A) The governing body of each joint facility that exists separately from any other local school system shall cause an annual audit to be made of the books and records of the facility, to order and pay for the audit and to contract with certified public accountants, public accountants or the department of audit to make the audit;

(B) The comptroller of the treasury, when the comptroller of the treasury deems it necessary, may require the audit to be conducted by the department of audit, the cost of the audit to be paid by the governing body;

(C) The comptroller of the treasury, through the department of audit, shall be responsible for determining that the audit is prepared in accordance with generally accepted governmental auditing standards and that the audit meets the minimum standards prescribed by the comptroller of the treasury;

(D) 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;

(5) In the event that it is found not to be economically or physically feasible to provide expanded career and technical programs by one (1) of the four (4) alternatives in subdivisions (c)(1)-(4), an alternate delivery procedure may be developed. The conditions that will authorize the development of an alternate delivery procedure include, but are not limited to, geographi-
cal barriers, low student population and excessive distances involved.

(d) After each county, including city and special school districts, is surveyed, the board of career and technical education shall plan facilities for comprehensive career and technical training for middle school students. The middle school programs may be conducted in any of the facilities where space and resources are available to high school students in accordance with subsection (c), or may be conducted in existing middle school facilities.

(e) (1) Career and technical training for the post high school student shall be planned and implemented through utilization of facilities provided by this section.

(2) The student shall have available to the student the programs of any facility.

(f) [Deleted by 2019 amendment.]

49-11-109. [Repealed.]

49-11-110. Preparation of students in middle school grades for career and technical education pathway.

(a) The department of education is encouraged to begin preparing students in middle school grades for a career and technical education (CTE) pathway by introducing students to career exploration opportunities that allow students to explore a wide variety of high-skill, high-wage, or in-demand career fields.

(b) The department of education is encouraged to:

(1) Provide career exploration and career development activities through an organized, systematic framework designed to aid students in the middle school grades, before enrolling and while participating in a career and technical education program, in making informed plans and decisions about future education and career opportunities and programs of study, which may include:

(A) Introductory courses or activities focused on career exploration and career awareness, including nontraditional fields;

(B) Readily available career and labor market information, including information on:

(i) Occupational supply and demand;

(ii) Educational requirements;

(iii) Other information on careers aligned to state or local priorities, as applicable; and

(iv) Employment sectors;

(C) Programs and activities related to the development of student graduation and career plans;

(D) Career guidance and academic counselors that provide information on postsecondary education and career options;

(E) Any other activity that advances knowledge of career opportunities and assists students in making informed decisions about future education and employment goals, including nontraditional fields; or

(F) Providing students with strong experience in, and a comprehensive understanding of, all aspects of an industry; and

(2) Provide professional development opportunities for teachers and faculty related to CTE for students in middle school grades.
49-11-111. Eligibility to receive credit towards receipt of professional and occupational licenses for career and technical training in high school and post high school. [Effective on January 1, 2020.]

(a) Persons who receive certified comprehensive career and technical training in high school and post high school pursuant to § 49-11-104 are eligible to receive equivalent credit towards the receipt of professional and occupational licenses relating to the training received. This section applies to all professions and occupations regulated under title 62.

(b)(1) The high school and post high school training received under this chapter must be consistent with the requirements for licensure by licensing authorities in order for persons to be eligible for equivalent credit under subsection (a).

(2) Any person aggrieved by the decision of a licensing authority concerning eligibility for equivalent credit under this section may appeal to the commissioner of commerce and insurance or the commissioner's designee for a determination of whether the training meets the requirements for licensure. An appeal under this subdivision (b)(2) must be conducted in the same manner as is provided in § 4-5-322, for a contested case hearing under the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(c) The commissioner of commerce and insurance, in collaboration with the state board of education and the various departments charged with supervision of licensing authorities shall promulgate rules to effectuate the purposes of this act. All rules must be promulgated in accordance with the Uniform Administrative Procedures Act.

49-11-202. Duties

The Tennessee council for career and technical education shall:

(1) Meet with the department of education or its representatives during the planning year to advise on the development of the state plan;

(2) Advise the department of education and make reports to the governor, the business community and general public of the state concerning:

   (A) Policies the state should pursue to strengthen career and technical education, with particular attention to programs for students with disabilities; and

   (B) Initiatives and methods the private sector could undertake to assist in the modernization of career and technical education programs;

(3) Analyze and report on the distribution of spending for career and technical education in the state and on the availability of career and technical education activities and services within the state;

(4) Furnish consultation to the department of education on the establishment of evaluation criteria for career and technical education programs within the state;

(5) Submit recommendations to the department of education on the conduct of career and technical education programs conducted in the state that emphasize the use of business concerns and labor organizations;

(6) Assess the distribution of financial assistance between secondary career and technical education programs and postsecondary career and technical education programs;
(7) Recommend procedures to the department of education to ensure and enhance the participation of the public in the provision of career and technical education at the local level within the state, particularly the participation of local employers and local labor organizations;

(8) Report to the department of education on the extent to which all persons are provided with equal access to quality career and technical education programs, including, but not limited to:

(A) Individuals with disabilities;
(B) Disadvantaged individuals;
(C) Adults who are in need of training and retraining;
(D) Individuals who are single parents or homemakers;
(E) Individuals who participate in programs designed to eliminate sex bias and stereotyping in career and technical education; and
(F) Criminal offenders who are serving in a correctional institution;

(9) Evaluate career and technical education program delivery systems at least once every two (2) years;

(10) Make recommendations to the department of education on the adequacy and effectiveness of the coordination that takes place between career and technical education and other training programs; and

(11) Advise the governor, the general assembly, the Tennessee board of regents, and the department of education of these findings and recommendations.


(a) The purpose of a career and technical education center shall be to furnish that type of instruction necessary for the training of craftspersons, primarily in manipulative skills, trade knowledge and business practices.

(b)(1) Its curriculum shall be planned so as not to duplicate training available in the public middle schools and public high schools of this state, except where duplication is necessary for training in the vocations and crafts that are a part of the school curriculum.

(2) Work experiences, whenever feasible, shall be an integral part of the training for the occupation selected.

49-11-402. General powers and duties of board of regents.

(a)(1) In order to carry out the intent expressed in § 49-11-401 and to provide a unified, overall program of vocational education and technical training, including the vocational education training program, title 8 of the National Defense Education Act of 1958 (P.L. 85-864, 72 Stat. 1597) program, the Area Redevelopment Act of 1961 (P.L. 87-27, 75 Stat. 47) program, and the Manpower Development and Training Act of 1962 (P.L. 87-415, 76 Stat. 23) program, the board of regents is authorized and directed to take such steps and to do whatever it deems necessary, including the development of a comprehensive plan, to carry out the intent of the general assembly as stated in § 49-11-401; and particularly, the board of regents is authorized and directed to locate, establish, construct and operate a statewide system of state colleges of applied technology in the manner provided in this section.

(2) The state colleges of applied technology shall be so situated that ultimately all parts of the state shall be in a reasonable distance of a state
college of applied technology or colleges. The state colleges of applied technology shall provide occupational training of less than university or community college grade for post high school youth, school dropouts, middle school youth participating in career and technical education pursuant to part 1 of this chapter, high school youth, adults needing retraining, handicapped, older workers, apprentices, other employed learners and employed workers.

(3) A state college of applied technology shall be established by the board of regents in a location or locations that it deems necessary to provide technical training, and the state college of applied technology shall function as a two-year terminal training college for the purpose of:

(A) Training engineering technicians for industry; and

(B) Preparing the student to earn a living as a technician or technical worker in the field of production, distribution or service.

(4) The board of regents may, in its discretion, take any appropriate action, enter into any agreements and do whatever it deems necessary to establish foundations for the state colleges of applied technology.

(b)(1) It is the intent of the general assembly that the board of regents will take the necessary steps to restructure the board and staff to carry out chapter 181 of the Public Acts of 1983, including the creation of a senior level staff position for vocational-technical education and additional staff that the chancellor deems necessary.

(2) The senior level staff member shall be knowledgeable in the field of vocational-technical education and the heads of the state colleges of applied technology will report directly to this board staff member.

(c)(1) Employees of institutions and state colleges of applied technology established pursuant to this part on July 1, 1983, shall become employees of the board of regents.

(2) Employees of institutions and state colleges of applied technology established pursuant to this part who have achieved rank and tenure under policies of the state board of education prior to July 1, 1983, and who continue as employees of the board of regents without a break in service shall retain that rank and tenure as employees of the board of regents.

(d) No state technical institute may be merged with a community college without approval by the general assembly.

49-11-501. [Repealed.]

49-11-502. [Repealed.]

49-11-602. Part definitions.

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

(1) “Commissioner” means the commissioner of human services;

(2) “Department” means the department of human services;

(3) “Director” means director of the vocational rehabilitation program;

(4) “Division” means the division of rehabilitation services;

(5)(A) “Eligible individual with a disability,” when used with respect to diagnostic and related services, training, guidance and placement, means any person with a disability who is a bona fide resident of this state at the time of application, whose vocational rehabilitation is determined feasible
by the division;

(B) When used with respect to other rehabilitation services, “eligible individual with a disability” means an individual meeting the requirements of subdivision (5)(A) who is also found by the division to require financial assistance with respect to rehabilitation services, after full consideration of the individual’s eligibility for any similar benefit by the way of pension, compensation and insurance;

(6) “Establishment of a rehabilitation facility” means the expansion, remodeling, or alteration of existing buildings, and initial equipment of the buildings, necessary to adapt the buildings to rehabilitation facility purposes or to increase the buildings’ effectiveness for rehabilitation purposes and initial staffing of the facility;

(7) [Deleted by 2019 amendment.]

(8) “Individual with a disability” means an individual of employable age who has a disability that constitutes a substantial barrier to employment, but that is of such a nature that appropriate vocational rehabilitation services may reasonably be expected to:

(A) Render the individual able to engage in a remunerative occupation; or

(B) Enable the individual to wholly or substantially achieve such ability of independent living as to dispense with the need of institutional care or to dispense or largely dispense with the need of an attendant at home;

(9) “Maintenance” means the provision of money to cover a handicapped individual’s necessary living expenses and health maintenance essential to achieving the handicapped individual’s vocational rehabilitation;

(10) “Nonprofit,” when used with respect to a rehabilitation facility or a workshop, means a rehabilitation facility and a workshop, respectively, owned and operated by a corporation or association, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual and the income of which is exempt from taxation under § 501 of the Internal Revenue Code of 1954 (26 U.S.C. § 501);

(11) “Physical restoration” includes:

(A) Corrective surgery or therapeutic treatment necessary to correct or substantially modify a physical or mental condition that is stable or slowly progressive and:

(i) Constitutes a substantial barrier to employment; or

(ii) Necessitates institutional care or attendant care, but is of such a nature that the correction or modification may reasonably be expected to eliminate or substantially reduce the barrier within a reasonable length of time and includes psychiatric treatment, dentistry, physical therapy, occupational therapy, speech or hearing therapy, treatment of medical complications and emergencies that are associated with or arise out of physical restoration services or are inherent in the conditions under treatment, and other medical services related to rehabilitation;

(B) Necessary hospitalization, either in patient or out patient, nursing or rest home care, in connection with surgery or treatment specified in subdivision (11)(A); and

(C) Prosthetic devices essential to:

(i) Obtaining or retaining employment; or

(ii) Achieving such ability of independent living as to dispense with the need for expensive institutional care or dispense with or largely
dispense with the need of an attendant at home;

(12) “Prosthetic appliance” means any appliance designed to support or take the place of a part of the body or to increase the acuity of a sensory organ;

(13) “Rehabilitation facility” means a facility operated for the primary purpose of assisting in the rehabilitation of physically handicapped individuals:

(A) That provides one (1) or more of the following types of services:
   (i) Testing, fitting or training in the use of prosthetic devices;
   (ii) Pre-vocational or conditioning therapy;
   (iii) Physical or occupational therapy;
   (iv) Adjustment training; or
   (v) Evaluation or control of special disabilities; or

(B) Through which is provided an integrated program of medical, psychological, social and vocational evaluation and services under competent professional supervision;

(14) “Remunerative occupation” includes employment as an employee or self-employed, practice of a profession, homemaking or farm and family work for which payment is in kind rather than cash, sheltered employment and home industry or other homebound work of a remunerative nature;

(15) [Deleted by 2019 amendment.]

(16) “Vocational rehabilitation” means making an individual able, or increasing the individual's ability, to:

(A) Engage in a remunerative occupation; or

(B) Dispense with or largely dispense with the need of an attendant at home or expensive institutional care, through providing the individual needed vocational rehabilitation services; and

(17) “Vocational rehabilitation services” means:

(A) Diagnostic and related services, including transportation, incidental to the determination of whether an individual is a handicapped individual, and if so, the individual's eligibility for, and the nature and scope of, other vocational rehabilitation services to be provided; and

(B) The following services provided eligible handicapped individuals needing the services:
   (i) Training;
   (ii) Guidance;
   (iii) Placement;
   (iv) Maintenance, not exceeding the estimated costs of subsistence during vocational rehabilitation;
   (v) Occupational licenses, tools, equipment, initial stocks and supplies, including equipment and initial stocks and supplies for vending stands, books and training materials;
   (vi) Transportation, other than provided as diagnostic and related services; and
   (vii) Physical restoration;

(18) [Deleted by 2019 amendment.]

49-11-603. Division of rehabilitation services and office of director of vocational rehabilitation program established.

(a)(1) The division of rehabilitation services and the office of director of the vocational rehabilitation program, the incumbent of which is called the
director in this section, are established.

(2) The director must be appointed, in accordance with established personnel standards, on the basis of the person's training, experience, and demonstrated ability in the field of vocational rehabilitation, or related fields, and is the head of the vocational rehabilitation program.

(b) Except as may be otherwise provided with respect to the blind, the division shall be the sole agency to supervise and administer vocational rehabilitation services authorized by this part under the state plan formulated and administered pursuant to this part, except the part or parts thereof may be administered in a political subdivision or subdivisions of this state by a sole local agency of the subdivision, and the division shall be the sole agency to supervise the local agency or agencies in the administration of such part or parts.

(c)(1) The director shall prepare, conformable to this part, the proposed regulations and a proposed state plan of vocational rehabilitation and, from time to time, prepare proposed changes that appear to be necessary or desirable.

(2) Upon approval by the department, the proposals constitute the state plan and state regulations.

49-11-604. Administration.

(a) The department is authorized to adopt and promulgate regulations with respect to methods of administration, use of medical and other records of individuals who have been provided vocational rehabilitation services and the establishment and maintenance of personnel standards, including provisions relating to the tenure, appointment and qualifications of personnel, which shall govern with respect to such matters notwithstanding any other law; however, such activities must conform with applicable rules and regulations of the department of human resources.

(b) The department is also authorized and directed to adopt and promulgate regulations respecting:

(1) The establishment and maintenance of minimum standards governing the facilities and personnel utilized in the provision of vocational rehabilitation services; and

(2) The order to be followed in selecting those to whom vocational rehabilitation services are to be provided in situations where such services cannot be provided to all eligible physically handicapped people.

(c) Pursuant to the general policies of the department, the director and the division are authorized to:

(1) Cooperate with and utilize services of the state agency or agencies administering the state's public assistance program, the federal social security administration, United States department of health and human services and other federal, state and local public agencies providing services relating to vocational rehabilitation and with the state system of public employment offices in this state, and shall make maximum feasible utilization of the job placement and employment counseling services and other services and facilities of such offices;

(2) Cooperate with political subdivisions and other public and nonprofit organizations and agencies in their establishment of rehabilitation facilities and, to the extent feasible in providing vocational rehabilitation services, shall utilize all such facilities meeting the standards established by the
board;
(3) Enter into contractual arrangements with the federal social security administration with respect to certifications of disability and performance of other services and with other authorized public agencies for performance of services related to vocational rehabilitation for such agencies; and
(4) Contract with schools, hospitals and other agencies, and with doctors, nurses, technicians and other persons, for training, physical restoration, transportation and other vocational rehabilitation services.
(d) The department shall administer and expend annual appropriations of state funds for vocational rehabilitation, in accordance with a state plan for vocational rehabilitation, approved by the social and rehabilitation services of the United States department of health and human services.

49-11-605. Cooperation with federal government.

(a) The department shall cooperate, pursuant to agreements with the federal government in carrying out the purposes of any federal statutes pertaining to vocational rehabilitation, and is authorized to adopt such methods of administration as are found by the federal government to be necessary for the proper and efficient operation of the agreements or plans for vocational rehabilitation and to comply with conditions that may be necessary to secure the full benefits of the federal statutes.
(b) The department may perform functions and services for the federal government relating to individuals under a physical or mental disability, the services and the individuals to be in addition to those enumerated in parts 6 and 7 of this chapter.


(a) The department shall formulate a plan of cooperation in accordance with federal acts and this part with respect to the administration of the workers’ compensation or liability laws.
(b) The plan may provide for full or partial recovery of any expenditures made by the division on behalf of a client with respect to treatment, therapy, medical or hospital services, prosthetic or orthotic devices or any payments that otherwise shall be provided or covered under § 50-6-204. Recovery may be from the client’s employer if self-insured or from the employer’s workers’ compensation insurance carrier.

49-11-607. Scope of rehabilitation services — Funding.

(a) All rehabilitation services, as defined in this part, may be provided to eligible individuals with disabilities; and in any event, the services shall include training, maintenance, placement, guidance and physical restoration services.
(b)(1) Within the limits and under the conditions that may be specified in appropriations for rehabilitation facilities, the department may establish rehabilitation facilities.
(2) Appropriations, federal grants and donations for vocational rehabilitation services, unless otherwise restricted, shall be available for all vocational rehabilitation services provided under the state plan and for the acquisition of vending stands or other equipment and initial stocks and
supplies for use by individuals with severe disabilities in any type of small business, the operation of which will be improved through management and supervision by the division.

(c) State appropriations and donations for vocational rehabilitation shall likewise be available for the purpose, whenever federal funds are made available to the state under any federal statute, for initiating projects for the extension and improvement of vocational rehabilitation services or for projects for research, demonstrations, training and traineeships, and for planning for and initiating expansion of vocational rehabilitation services under the state plan.

(d)(1) The acceptance of federal and other funds, and their use for vocational rehabilitation, subject to restrictions that may be imposed by the donor and that are not inconsistent with this part, is authorized.

(2) Funds appropriated by the general assembly for that purpose may be used to match the federal funds and private funds.

(e) The division shall not expend funds appropriated to it for the rehabilitation of individuals with disabilities as defined in § 49-11-602(8)(B), but may, from division funds, defray administration and counseling and guidance expenses only; provided, that other state agencies or local governments or private sources may make their funds available to the division so as to obtain federal aid or funds to purchase rehabilitation services for the rehabilitation of individuals with disabilities.


The department is empowered to receive gifts and donations from either public or private sources, as may be offered unconditionally or under conditions related to vocational rehabilitation of persons disabled in industry or otherwise that are proper and consistent with this part. All the moneys received as gifts or donations shall be deposited with the state treasurer and shall constitute a permanent fund to be called a special fund for vocational rehabilitation of disabled persons, to be used by the department to defray the expenses of vocational rehabilitation in special cases, including the payment of necessary expenses of persons undergoing training. A full report of gifts and donations offered and accepted, together with the names of the donors and the respective amounts contributed by each, and all disbursements therefrom shall be submitted annually to the governor.


The state treasurer is appointed custodian for the funds for vocational rehabilitation as provided by the laws of this state and shall receive and provide for the custody of the funds that may come from the federal government and from other sources for vocational rehabilitation, together with the state funds appropriated for this purpose. The state treasurer shall disburse the funds on the order of the commissioner.

49-11-610. Eligibility for services.

Vocational rehabilitation services shall be provided to any individual with a disability in accordance with a policy or policies promulgated by the department:
(1) Whose vocational rehabilitation the director determines, after full investigation, can be satisfactorily achieved; or
(2) Who is eligible for vocational rehabilitation under the terms of an agreement with the federal government.

49-11-612. Hearings.

Any individual applying for or receiving vocational rehabilitation services who is aggrieved by any action of the division is entitled, in accordance with regulations, to a fair hearing, before a hearing officer.

49-11-901. Part definitions.

As used in this part:
(1) “Grant” means a qualified work-based learning grant issued pursuant to this part;
(2) “Grant fund” means the qualified work-based learning grant fund established by § 49-11-903;
(3) “Program operator” means a nonprofit entity that has entered into an agreement with THEC to administer the program established by this part;
(4) “Qualified work-based learning student” means a student who is sixteen (16) years of age or older, enrolled in a Tennessee public high school, and participating in a work-based learning course for academic credit or credit toward completion of a career and technical education program;
(5) “THEC” means the Tennessee higher education commission; and
(6) “Work-based learning” means the application of academic and technical knowledge in a work setting that involves actual work experience.

49-11-902. Maintenance of student accident insurance coverage — Making information available to LEAs and employers.

(a) Each LEA implementing work-based learning shall maintain student accident insurance coverage.
(b) The department of education, in coordination with the department of labor and workforce development, the bureau of workers’ compensation, and the department of economic and community development, shall make information available to employers and LEAs on applicable wage and hour laws, child labor laws, safety and health laws, workers’ compensation, accident insurance, and liability insurance.

49-11-903. Qualified work-based learning grant program — Fund — Program operator.

(a) THEC shall establish and administer a qualified work-based learning grant program to incentivize employer participation in work-based learning and to assist employers with costs associated with work-based learning.
(b) There is created a separate fund within the general fund to be known as the qualified work-based learning grant fund.
(c) The grant fund is composed of:
(1) Funds specifically appropriated by the general assembly for the grant fund; and
(2) Gifts, grants, and other donations received for the grant fund.
(d) Moneys in the grant fund must be invested by the state treasurer for the
benefit of the grant fund in accordance with § 9-4-603. Interest accruing on investments and deposits of the grant fund must be returned to the grant fund and remain part of the grant fund.

(e) Any unencumbered funds and any unexpended balance of the grant fund remaining at the end of any fiscal year must not revert to the general fund, but must be carried forward until expended in accordance with this section.

(f) Moneys in the grant fund may only be expended with THEC’s approval and in accordance with this section.

(g) THEC shall select a program operator to administer the program established by this part and shall issue a grant from funds available in the qualified work-based learning grant fund to the program operator selected by THEC.

49-11-905. Eligibility for qualified work-based learning grant.

To be eligible for a qualified work-based learning grant, an employer who accepts or employs a qualified work-based learning student must submit an application to the program operator on a form prescribed by the program operator, along with any supporting documentation required by the program operator. The program operator shall establish a formal process and deadline for receiving an employer’s application. An employer that fails to submit an application by the program operator’s established deadline shall not receive any grant allowed under this part. THEC may develop policies and procedures to approve applications.

49-11-906. Promulgation of rules.

THEC may promulgate rules to effectuate the purposes of this part in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

49-11-907. Application fee.

The program operator may establish an application fee sufficient to offset the costs of administering this part, subject to approval by THEC.

49-11-908. Audits of program operator.

As a condition of receiving funds from THEC pursuant to this part, the program operator must agree to submit to audits by the comptroller of the treasury.

49-13-104. Chapter definitions.

As used in this chapter:

(1) “Academic focus” means a distinctive, thematic program such as math, science, arts, general academics, or an instructional program such as Montessori or Paideia;

(2) “Academic plan” means a platform that supports the academic focus of the charter school and will include instructional goals and methods for the school, which, at a minimum, shall include teaching and classroom instruction methods, materials and curriculum that will be used to provide students with knowledge, proficiency and skills needed to reach the goals of the school;
(3) “Authorizer” means:
   (A) A local board of education, the Tennessee public charter school
       commission, or the achievement school district as defined in § 49-1-614,
       that makes decisions regarding approval, renewal, and revocation of a
       public charter school application or agreement; and
   (B) Includes the state board of education until 11:59 p.m. on June 30,
       2021;

(4) “Charter agreement” means a fixed-term renewable agreement be-
    tween a public charter school and the authorizer that outlines the rights,
    responsibilities, and performance expectations of each party;

(5) “Charter management organization” or “CMO” means a nonprofit
    entity that manages or operates two (2) or more public charter schools;

(6) [Deleted by 2019 amendment.]

(7) “Commission” means the Tennessee public charter school commission;

(8) “Conversion public charter school” means a charter school established
    by the conversion of an existing non-charter public school into a charter
    school;

(9) “Foreign” means a country or jurisdiction outside of any state or
    territory of the United States;

(10) “Governing body” means the organized group of persons who will
    operate a public charter school or schools by deciding matters, including, but
    not limited to, budgeting, curriculum and other operating procedures for the
    public charter school and by overseeing management and administration of
    a public charter school;

(11) “Licensed teacher” means a person over the age of eighteen (18) who
    meets the qualifications of chapter 5, part 1 of this title and holds a valid
    Tennessee educator license in compliance with the rules and regulations of
    the state board of education;

(12) “Local education agency” or “LEA” has the same definition as used in
    § 49-3-302;

(13) “Public charter school” means a public school in this state that is
    established and operating under the terms of a charter agreement and in
    accordance with this chapter;

(14) “Sponsor” means a proposed governing body filing an application for
    the establishment of a public charter school, that:
       (A) Is not a for-profit entity; nonpublic school as defined in § 49-6-3001;
           other private, religious, or church school; or postsecondary institution not
           regionally accredited; and
       (B) Does not promote the agenda of any religious denomination or
           religiously affiliated entity; and

(15) “Underutilized or vacant property” means an entire property or
    portion thereof, with or without improvements, which is not used or is used
    irregularly or intermittently by the LEA for instructional or program
    purposes. “Underutilized or vacant property” does not include real property
    on which no building or permanent structure has been erected.


   (a) There is established the Tennessee public charter school commission as
       an independent state entity for the purpose of serving as an appellate public
       charter school authorizer and the LEA for any public charter school it
authorizes. Beginning in the 2020-2021 school year, the commission has the authority to authorize public charter schools on appeal of a local board of education’s decision to deny a public charter school application. A public charter school that is authorized by the commission must operate within the geographic boundaries of the local board of education that denied approval of the initial public charter school application. The commission may adopt policies and procedures for the commission and the commission’s authorized public charter schools.

(b)(1)(A) The commission must be composed of nine (9) members appointed by the governor. Except as otherwise provided in this subsection (b), the nine (9) members of the commission must be confirmed by joint resolution of the senate and the house of representatives prior to beginning a term of office.

(B) If either house fails to confirm the appointment of a board member by the governor within ninety (90) calendar days after the general assembly next convenes in regular session following the appointment, then the appointment terminates on the day following the ninetieth calendar day.

(2) If the general assembly is not in session when initial appointments are made, then all initial appointees shall serve the terms prescribed pursuant to this section, unless the initial appointments are not confirmed during the next regular session of the general assembly in accordance with subdivision (b)(1).

(3) If the general assembly is not in session at the time a member is appointed to fill a vacancy, then the new appointee serves for the term appointed unless the appointment is not confirmed during the next regular session of the general assembly in accordance with subdivision (b)(1).

(4) All members shall be subject to removal from the commission by a two-thirds \(\frac{2}{3}\) majority vote of each house of the general assembly for misconduct, incapacity, or neglect of duty. Removal must be by passage of a joint resolution by the senate and the house of representatives.

(c)(1) In making appointments, the governor shall strive to ensure that the commission members collectively possess experience and expertise in charter schools or charter school authorizing, public and nonprofit governance, finance, law, and school or school district leadership.

(2) A majority of the commission members must reside within the geographic boundary of an LEA in which at least one (1) public charter school operates.

(3) There must be at least three (3) members from each grand division of this state serving on the commission.

(d) The terms for all initial members begin on July 1, 2019. The terms of the initial nine (9) appointments shall be three (3) years for three (3) members, four (4) years for three (3) members, and five (5) years for three (3) members, as designated by the governor in the governor’s initial appointments. As the terms for the initial members expire, successors shall be appointed for five-year terms.

(e) Each member of the commission shall:

(1) Review public charter school applications, hear appeals, and carry out the member’s duties in a fair and impartial manner; and

(2) Before beginning a term of office, sign a conflict of interest agreement in which the member agrees to carry out the member’s duties in compliance
with subdivision (e)(1).

(f)(1) The commission has the power to declare a commission member’s position vacant if a commission member fails, without cause, to attend more than fifty percent (50%) of the commission’s regular meetings in a calendar year. The commission shall determine cause for purposes of this subdivision (f)(1).

(2)(A) Whenever a vacancy on the commission exists, the governor shall appoint a member for the remainder of the unexpired term. A member appointed by the governor to fill a vacancy on the commission is subject to confirmation by the general assembly pursuant to subsection (b).

(B) A member of the commission shall not vote on any matter that involves an LEA or public charter school of which the member is an employee of the local board of education or the governing body.

(g) The commission shall meet at least quarterly. The chair may call special meetings whenever necessary for the transaction of urgent business. The chair shall notify each member of the commission of any special meeting at least five (5) days before the time fixed for the special meeting. A majority of the commission may petition the chair to call a special meeting, in which case the chair shall call a special meeting.

(h) A majority of the commission members entitled to vote is required to transact business coming before the commission. The commission shall pass a resolution memorializing the commission’s approval or denial of each application that the commission considers. The commission shall comply with the open meetings law, compiled in title 8, chapter 44, and open records law, compiled in title 10, chapter 7.

(i) The chair and vice chair are officers of the commission and must be elected by the members of the commission for a term of three (3) years or for the remainder of the respective chair’s or vice chair’s term on the commission, whichever is earlier. Officers may be reelected.

(j) A commission member shall not receive compensation but shall be reimbursed for expenses incurred in the performance of official duties in accordance with the state comprehensive travel regulations as promulgated by the commissioner of finance and administration and approved by the attorney general and reporter.

(k)(1) The commission shall employ a director of schools who has the same duties and powers granted to directors of schools in § 49-2-301, consistent with this chapter. An employee or official of any department, agency, or board of this state shall not serve as a director of schools. The director of schools shall be responsible solely to the commission.

(2) Additional personnel hired by the director of schools shall be subject to personnel regulations and policies that apply to state employees, such as leave, compensation, classification, and travel regulations. The director of schools has the sole authority to appoint, terminate, and control personnel as provided in this section. The personnel of the commission shall not have state service status.

(l) Notwithstanding any law to the contrary, the commission shall, at a minimum, have the same authority and autonomy afforded to LEAs under state law regarding the procurement of goods and services, including, but not limited to, personal, professional, consulting, and social services. The commission shall develop written procedures for the procurement of all goods and services in compliance with the expenditure thresholds for competitive bidding
outlined or permitted in § 49-2-203.

(m) The commission may promulgate rules and regulations that are solely necessary for the administrative operation and functions of the commission. The commission’s rulemaking authority shall not supersede the state board of education’s rulemaking authority and may only be exercised in performance of the commission’s administrative responsibilities. The rules must be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(n) Commission meetings shall be made available for public viewing over the internet by streaming video accessible on the commission’s website. Archived videos of the commission’s meetings shall also be available to the public through the commission’s website.

(o) The following individuals are prohibited from serving as a member of the commission for so long as they hold the office or position:

(1) Elected officials; and
(2) State employees.

49-13-106. Creation or conversion of charter schools.

(a) Public charter schools are part of the state program of public education.

(b) A charter shall not be granted to a for-profit corporation.

(c) A nonpublic school, as defined in § 49-6-3001, or other private, religious, or church school, shall not establish a public charter school pursuant to this chapter.

(d) A cyber-based public charter school shall not be authorized.

(e) A public charter school shall not charge registration fees, enrollment fees, or tuition; provided, however, that tuition may be charged if, in accordance with § 49-13-113(b), the governing body of the public charter school approves a student’s transfer from another LEA to the public charter school pursuant to § 49-6-3003.

(f)(1) Public charter schools may be formed to provide quality educational options for all students residing within the jurisdiction of the authorizer.

(2)(A) The achievement school district may authorize charter schools within the jurisdiction of the LEA for the purpose of providing opportunities for students within the LEA who are zoned to attend or enrolled in a school that is eligible to be placed in the achievement school district. For the purposes of this subdivision (f)(2), students shall not be considered “zoned” for a school that is open to all students within the LEA unless they are assigned to the school based on the LEA’s geographic zoning policies.

(B) [Deleted by 2019 amendment.]

(3) [Deleted by 2019 amendment.]

(g) A public charter school may be formed by creating a new school or converting a school to charter status pursuant to this chapter.

(1) [Deleted by 2019 amendment.]

(2) [Deleted by 2019 amendment.]

(3) [Deleted by 2019 amendment.]

(h) [Deleted by 2019 amendment.]

(i) Nothing in this chapter shall be construed to prohibit any individual or organization from providing funding or other assistance to the establishment or operation of a public charter school, but the funding or assistance shall not entitle the individual or organization to any ownership interest in the school other than a security interest for repayment of a loan or mortgage. The funding
or assistance shall be disclosed as provided in § 49-13-107.

(j) If a sponsor seeks to establish a new public charter school, then the sponsor must apply to the local board of education.

(k)(1) If a sponsor seeks to convert an existing public school to a public charter school, then the sponsor must apply to the local board of education. This subdivision (k)(1) does not apply if the existing public school has entered the achievement school district pursuant to § 49-1-614.

(2)(A) Local boards of education may request that a sponsor apply to convert an existing public school to a public charter school.

(B) Upon a local board of education’s review of a sponsor’s application for a new public charter school, the local board of education may request that the sponsor amend the public charter school application to provide for the conversion of an existing public school.

(C) This subdivision (k)(2) does not require a local board of education to approve a sponsor’s application to convert an existing public school to a public charter school.

(3) An existing public school may convert to a public charter school pursuant to this chapter if the parents of at least sixty percent (60%) of the children enrolled in the school, or at least sixty percent (60%) of the teachers assigned to the school, support the conversion and demonstrate such support by signing a petition seeking conversion, and if the LEA approves the application for conversion. The percentage of parents signing a petition must be calculated on the basis of one (1) vote for each child enrolled in the school.

(4) A public charter school sponsor shall submit the sponsor’s application for conversion to the local board of education. The local board of education shall act on the application no later than ninety (90) days after the date on which the application was submitted.

(5) If the application for conversion of an existing public school to a public charter school is approved, then:

(A) The conversion must occur at the beginning of an academic school year. The conversion public charter school shall be subject to compliance with this chapter;

(B) Any teacher or administrator in the conversion public charter school shall be allowed to transfer into vacant positions in other schools in the LEA for which they are certified before the LEA hires new personnel to fill the vacant positions. Personnel who transfer into vacant positions in other schools in the LEA shall not suffer any impairment, interruption, or diminution of the rights and privileges of a then existing teacher or administrator, and the rights and privileges shall continue without impairment, interruption, or diminution with the local board of education. “Rights and privileges,” as used in this subdivision (k)(4)(B), include, but are not limited to, salary, pension, retirement benefits, sick leave accumulation, tenure, seniority, and contract rights with the local board of education. The director of schools has the option to specifically assign teachers or administrators in a conversion public charter school to vacant positions in other schools in the LEA;

(C) Enrollment preference shall be given to students who reside within the former school zone of the converted public school. The enrollment preference for students who reside within the former attendance area excludes such students from entering into a lottery;

(D) The conversion public charter school may enroll students living in other school zones after students residing within the school zone have had
the opportunity to enroll, but only if there is program, class, grade level, and building capacity to serve the out-of-zone students. If applications by out-of-zone students exceed the conversion public charter school's capacity, then enrollment of out-of-zone students must be determined on the basis of a lottery. Out-of-zone students who attended the school during the previous school year and the siblings of students who attended the school may be given preference in enrollment;

(E) A parent of a child who is enrolled at the conversion public school may enroll the parent’s child in another public school without penalty; and

(F) The conversion public charter school shall occupy the converted public school’s existing facility.

(6) If the local board of education denies the application for conversion, then the decision is final and is not subject to appeal.

(7) A charter agreement shall not be granted under this chapter that authorizes the conversion of any private, parochial, cyber-based, or home-based school to charter status.


(a) Sixty (60) days before the application process begins pursuant to subsection (b), a prospective charter school sponsor shall submit a letter of intent to the department of education and the authorizer of its plan to submit an application to operate a charter school.

(b) On or before February 1 of the year preceding the year in which the proposed public charter school plans to begin operation, the sponsor seeking to establish a public charter school shall prepare and file with the authorizer and the department of education an application using the application template developed by the department and that provides the following information and documents:

(1) A statement defining the mission and goals of the proposed charter school, including the proposed charter school’s academic focus;

(2) A proposed academic plan, including the instructional goals and methods for each grade level the school will serve, which, at a minimum, shall include teaching and classroom instruction methods that will be used to provide students with the knowledge, proficiency and skills needed to reach the goals of the school;

(3) A plan for evaluating student academic achievement at the proposed public charter school and the procedures for remedial action that will be used by the school when the academic achievement of a student falls below acceptable standards;

(4) An operating budget based on anticipated enrollment; provided, however, that such operating budget shall not exceed a ten-year projection;

(5) The method for conducting annual audits of the financial, administrative and program operations of the school;

(6) A timetable for commencing operations as a public charter school that shall provide for a minimum number of academic instruction days, which shall not be fewer than those required by statute;

(7) The proposed rules and policies for governance and operation of the school;

(8) The names and addresses of the members of the governing body;

(9) A description of the anticipated student enrollment and the nondis-
criminatory admission policies;

(10) The code of behavior and discipline of the proposed public charter school;

(11) The plan for compliance with the applicable health and safety laws and regulations of the federal government and the laws of the state;

(12) The experience required of employees of the proposed public charter school;

(13) The identification of the individuals sponsoring the proposed public charter school, including their names and addresses;

(14) The procedures governing the deposit and investment of idle funds, purchasing procedures and comprehensive travel regulations;

(15) The plan for the management and administration of the public charter school;

(16) A copy of the proposed bylaws of the governing body of the charter school;

(17) A statement of assurance of liability by the governing body of the charter school;

(18) A statement of assurance to comply with this chapter and all other applicable laws;

(19) Types and amounts of insurance coverage to be held either by the charter school or approved by the authorizer, including provisions for assuring that the insurance provider will notify the department of education within ten (10) days of the cancellation of any insurance it carries on the charter school;

(20) The plan for transportation for the pupils attending the charter school; and

(21) Information regarding financing commitments from equity investors or debt sources for cash or similar liquid assets sufficient to demonstrate that the charter school will have liquid assets sufficiently available to operate the school on an ongoing and sound financial basis. In lieu of cash or similar liquid assets, an applicant may provide a financial bond issued by a company authorized to issue surety bonds in this state.

c) A charter school application and any renewal application under § 49-13-121 shall include a disclosure of all donations of private funding, if any, including, but not limited to, gifts received from foreign governments, foreign legal entities and, when reasonably known, domestic entities affiliated with either foreign governments or foreign legal entities.

d) Authorizers shall require no more than five (5) paper copies of the application in addition to an electronic version of the application.

e) In reviewing and evaluating a charter application, an authorizer shall, if applicable, take into account the performance, including both student growth and achievement, of any charter school operated by the sponsor.

(f) An authorizer may require a public charter school sponsor to pay to the authorizer an application fee of up to two thousand five hundred dollars ($2,500) with each charter school application the sponsor files.

49-13-108. Approval or denial of public charter school application by public charter school authorizers.

(a) Public charter school authorizers have the authority to approve applications to establish public charter schools and to make decisions regarding the
renewal and revocation of a charter agreement.

(b)(1) This section only applies to applications for the creation of new public charter schools that are submitted to a local board of education.

(2) The local board of education shall rule by resolution, at a regular or specially called meeting, to approve or deny a public charter school application no later than ninety (90) days after the local board of education’s receipt of the completed application. If the local board of education fails to approve or deny a public charter school application within the ninety-day time period prescribed in this subdivision (b)(2), then the public charter school application shall be deemed approved.

(3) The grounds upon which the local board of education based a decision to deny a public charter school application must be stated in writing and must specify objective reasons for the denial. Upon receipt of the grounds for denial, the sponsor has thirty (30) days from receipt to submit an amended application to correct the deficiencies. The local board of education has sixty (60) days from receipt of an amended application to deny or to approve the amended application. If the local board of education fails to approve or deny the amended application within sixty (60) days, then the amended application shall be deemed approved.

(4)(A) Until 11:59 p.m. on December 31, 2020:

(i) A denial by the local board of education of an application to establish a public charter school may be appealed by the sponsor to the state board of education no later than ten (10) days after the date of the final decision to deny. The appeal and review process must be conducted in accordance with this subdivision (b)(4);

(ii) No later than sixty (60) days after the state board of education receives a notice of appeal, or after the state board of education makes a motion to review and provides reasonable public notice, the state board of education, at a public hearing attended by the local board of education or the local board of education’s designated representative and held in the LEA in which the proposed public charter school submitted the public charter school application, shall conduct a de novo on the record review of the proposed public charter school’s application and make its findings;

(iii) The state board of education or the state board of education’s executive director, acting for the state board of education, may allow a sponsor to make corrections to the sponsor’s application on appeal, except for the elements of the application required under § 49-13-107(b)(1), (2), (4), (6), (9), (12), (13), (18), and (20);

(iv) If the application is for a public charter school in an LEA that does not contain a priority school on the current or last preceding priority school list, and if the state board of education finds that the local board of education’s decision was contrary to the best interests of the students, LEA, or community, then the state board of education shall remand the decision to the local board of education with written instructions for approval of the public charter school application. The grounds upon which the state board of education based its decision to remand the application must be stated in writing and must specify objective reasons for the state board of education’s decision. The state board of education’s decision is final and is not subject to appeal. The local board of education shall be the authorizer; and
(v) If the application is for a public charter school in an LEA that contains at least one (1) priority school on the current or last preceding priority school list, and if the state board of education finds that the local board of education’s decision was contrary to the best interests of the students, LEA, or community, then the state board of education may approve the application for the public charter school. The state board of education's decision is final and is not subject to appeal. The state board shall be the authorizer.

(B) This subdivision (b)(4) is repealed at 11:59 p.m. on December 31, 2020.

(5) Beginning immediately upon the repeal of subdivision (b)(4):
   (A) A sponsor may appeal a local board of education’s decision to deny a public charter school application to the commission no later than ten (10) days after the date of the local board of education’s decision. The appeal and review process must be conducted in accordance with this subdivision (b)(5);
   (B) After receiving a notice of appeal, the commission or the commission’s designee shall:
      (i) Hold an open meeting in the LEA in which the proposed public charter school submitted the public charter school application. The meeting must be open to representatives from the local board of education and the sponsor. Notice of the meeting must be provided to the local board of education, the sponsor, and the general public. At least one (1) week before the meeting, notice of the meeting must be:
         (a) Published in a newspaper of general circulation in the county where the LEA is located; and
         (b) Posted on the commission’s website; and
      (ii) Conduct a de novo on the record review of the proposed public charter school’s application;
   (C) The commission shall either approve or deny a public charter school application no later than seventy-five (75) days from the commission’s receipt of the notice of appeal;
   (D) The commission shall review applications on appeal in accordance with the state board of education’s quality public charter school authorizing standards. Except as provided in subsection (c), if the commission finds that the application meets or exceeds the metrics outlined in the department of education’s application-scoring rubric and that approval of the application is in the best interests of the students, LEA, or community, then the commission may approve the public charter school’s application. The commission’s decision is final and is not subject to appeal. If the commission approves an application, then the commission is the authorizer and the LEA for that public charter school;
   (E) Notwithstanding subdivision (b)(5)(D), a public charter school authorized by the commission, and the local board of education of the LEA in which the public charter school is located, may, within thirty (30) calendar days of the public charter school’s authorization, mutually agree in writing that the local board of education will be the authorizer and the LEA for the public charter school, and the local board of education shall assume the rights and responsibilities of the charter agreement. The charter agreement must be filed with the commission in a manner prescribed by the commission. This subdivision (b)(5)(E) also applies to a public charter school that has had its charter agreement renewed on appeal by the
(F)(i) For accountability purposes under § 49-1-602, the performance of a public charter school authorized by the commission is not attributable to the LEA in which the public charter school is geographically located; and

(ii) Notwithstanding subdivision (b)(5)(F)(i), if a public charter school authorized by the commission, and the LEA in which the public charter school is geographically located, mutually agree that the local board of education will be the authorizer and the LEA for the public charter school pursuant to subdivision (b)(5)(E), then for accountability purposes under § 49-1-602, the public charter school’s performance shall be attributable to the LEA.

(c) The local board of education may consider whether the establishment of the proposed public charter school will have a substantial negative fiscal impact on the LEA such that authorization of the public charter school would be contrary to the best interest of the students, LEA, or community. If a local board of education’s decision to deny a public charter school application is based on substantial negative fiscal impact, then the commission shall consider the fiscal impact of the public charter school on the LEA before approving a public charter school on appeal. The commission may request additional information from the public charter school sponsor and the LEA regarding such consideration. The commission shall not approve for operation any public charter school that the commission determines will have a substantial negative fiscal impact on an LEA, such that authorization of the public charter school would be contrary to the best interests of the students, LEA, or community.

(d)(1) An authorizer may deny a public charter school application if the proposed public charter school plans to staff positions for teachers, administrators, ancillary support personnel, or other employees by utilizing, or otherwise relying on, nonimmigrant foreign worker H1B or J1 visa programs in excess of three and one half percent (3.5%) of the total number of positions at any single public charter school location for any school year.

(2) Notwithstanding subdivision (d)(1), an authorizer shall not deny a public charter school application solely because the proposed public charter school plans to exceed the limitation in subdivision (d)(1) by employing foreign language instructors who, prior to employment, meet and, during the period for which the instructors’ H1B or J1 visas have been granted, will meet all Tennessee educator licensure requirements. If an authorizer denies a public charter school application under this subsection (d), then the sponsor may appeal the authorizer’s decision to deny the application as provided in subsection (b).

(e) An authorizer shall not base the authorizer’s approval of a public charter school application on conditions or contingencies.

(f) The state board of education shall adopt quality public charter school authorizing standards based on national best practices. Authorizers shall adopt the authorizing standards approved by the state board of education.

(g) No later than ten (10) days after the approval or denial of a public charter school application, the authorizer shall report to the department of education whether the authorizer approved or denied the application. The authorizer shall provide the department with a copy of the authorizer’s resolution that provides the authorizer’s decision and the reasons for the authorizer’s decision.

(a) The membership of a governing body shall include at least one (1) parent representative whose child is currently enrolled in a charter school operated by the governing body. The parent representative shall be appointed by the governing body within six (6) months of the school's opening date. A charter management organization may satisfy this requirement by establishing an advisory school council at each school that it operates. An advisory school council shall consist of no fewer than five (5) members and shall include the principal, at least one (1) parent and at least one (1) teacher representative.

(b) An authorizer shall not serve as the governing body of a public charter school.


(a) An authorizer's approval of a public charter school application must be in the form of a written charter agreement signed by the sponsor and the authorizer, which shall be binding upon the governing body of the public charter school. The charter agreement for a public charter school must be in writing and must contain all material components of the approved application required under § 49-13-107(b).

(b) A charter agreement expires ten (10) academic years after the first day of instruction. A public charter school may delay, for a period not to exceed one (1) academic year, the school's initial opening. If the public charter school requires a delay in the school's initial opening of more than one (1) academic year, then the school must obtain approval of the delay from the school's authorizer.

(c) A renewal of a charter agreement shall be for a period of ten (10) academic years.

(d) The governing body of the public charter school may petition the authorizer to amend the original charter agreement. Timelines for approval and the appeal process will be determined by the state board of education. If the authorizer is the state board of education or the commission, then no appeal may be made of the state board of education's or the commission's decision to deny a petition to amend the charter agreement. The governing body of a public charter school may also petition the authorizer for voluntary termination of the charter agreement before the charter agreement expires.

(e)(1) Upon the termination of a charter agreement and upon the closure of a public charter school for any reason, any unencumbered public funds from the public charter school automatically revert back to the authorizer. If a charter agreement is terminated and the public charter school is closed, all property and improvements, furnishings, and equipment purchased with public funds automatically revert back to the LEA, subject to complete satisfaction of any lawful liens or encumbrances.

(2) If a public charter school is closed for any reason, then the public charter school is responsible for all debts of the public charter school. The authorizer shall not assume the debt from any contract for goods or services made between the governing body of the public charter school and a third party, except for a debt that is previously detailed and agreed upon in writing by the authorizer and the governing body of the public charter school, and that may not reasonably be assumed to have been satisfied by the authorizer.
49-13-111. Compliance.

(a) A public charter school shall, at a minimum:
   (1) Be operated by a not-for-profit organization that is exempt from federal taxation under § 501(c)(3) of the Internal Revenue Code, 26 U.S.C. § 501(c)(3);
   (2) Operate as a public, nonsectarian, nonreligious public school, with control of instruction vested in the governing body of the public charter school under the general supervision of the authorizer and in compliance with the charter agreement and this chapter;
   (3) Meet the performance standards and requirements adopted by the state board of education for public schools;
   (4) Except as provided in § 49-13-142(d), receive state, federal, and local funds from the local board of education;
   (5) Provide education services for students with disabilities, English language learners, and other students with diverse needs, in accordance with state and federal law;
   (6) Administer state assessments as provided in chapter 1, part 6 of this title; and
   (7) Open and operate within the geographic boundaries of the authorizing local board of education or, if the public charter school is authorized by the achievement school district or the commission, within the geographic boundaries of the LEA in which the charter sponsor has been approved to locate.

(b) A public charter school shall be subject to all federal and state laws and constitutional provisions prohibiting discrimination on the basis of disability, race, creed, color, national origin, religion, ancestry or need for special education services. A public charter school may not violate or be used to subvert any state or federal court orders in place in the local school district.

(c)(1) A public charter school shall comply with all applicable health and safety standards, regulations and laws of the United States and this state.
   (2) [Deleted by 2019 amendment.]

(d) A public charter school shall be accountable to the authorizer for the purpose of ensuring compliance with the charter agreement and the requirements of this chapter. Authorizers shall enforce compliance with the requirements of this chapter.

(e) All contracts for goods in excess of ten thousand dollars ($10,000) shall be bid and must be approved by the governing body of each public charter school.

(f) [Deleted by 2019 amendment.]

(g) With regard to conflicts of interest, the governing body of a public charter school shall be subject to §§ 12-4-101 and 12-4-102.

(h) All records of a public charter school are open for personal inspection and duplication by any citizen of this state to the same extent that records of public schools operated by an LEA are open.

(i) The meetings of the governing body of a public charter school shall be deemed public business and must be held in compliance with title 8, chapter 44, part 1. All information providing notice of public meetings as required under § 8-44-103 must be kept current by a public charter school on the public charter school’s website. The board of directors of a CMO may conduct a board meeting concerning a public charter school located in this state by teleconference, videoconference, or other electronic means in compliance with § 8-44-108, except that § 8-44-108(b)(2) and (3) shall not apply to such a meeting if a physical quorum is not present at the location stated in the notice of the
meeting.

(j) A public charter school shall follow the state board of education’s rules and regulations for licensure and endorsement of employees.

(k) All teachers in a public charter school must hold a valid Tennessee educator license.

(l) A public charter school is subject to state audit procedures and audit requirements.

(m) [Deleted by 2019 amendment.]

(n) A public charter school shall be operated on a July 1 to June 30 fiscal year and the governing body shall adopt and operate under an annual budget for the fiscal year. The budget shall be prepared in the same format as that required by the state department of education for LEAs.

(o) A public charter school shall maintain the school’s accounts and records in accordance with accounting principles generally accepted in the United States and in conformity with the uniform chart of accounts and accounting requirements prescribed by the comptroller of the treasury. The public charter school shall prepare and publish an annual financial report that encompasses all funds. The annual financial report must include the audited financial statements of the public charter school.

(p) A public charter school shall require any member of the governing body, employee, officer or other authorized person who receives funds, has access to funds, or has authority to make expenditures from funds, to give a surety bond in the form prescribed by § 8-19-101. The cost of the surety bond shall be paid by the charter school and shall be in an amount determined by the governing body.

(q) The governing body shall conduct at least one (1) annual board training course and shall provide documentation of such training to the authorizer. The training course shall be certified by the Tennessee Charter School Center and approved by the state board of education.

(r) Except where waivers are otherwise prohibited in this chapter, a public charter school may apply to either the authorizer or to the commissioner of education for a waiver of any state board rule or statute that inhibits or hinders the proposed public charter school’s ability to meet the school’s goals or comply with the school’s mission statement. Neither the authorizer nor the commissioner shall waive regulatory or statutory requirements related to:

1. Federal and state civil rights;
2. Federal, state, and local health and safety;
3. Federal and state public records;
4. Immunizations;
5. Possession of weapons on school grounds;
6. Background checks and fingerprinting of personnel;
7. Federal and state special education services;
8. Student due process;
9. Parental rights;
10. Federal and state student assessment and accountability;
11. Open meetings; and
12. At least the same equivalent time of instruction as required in regular public schools.

(a) A local board of education shall allocate to the charter school an amount equal to the per student state and local funds received by the LEA and all appropriate allocations under federal law or regulation, including, but not limited to, Title I and ESEA funds. The allocation shall be made in accordance with the policies and procedures developed by the department of education. Each LEA shall include as part of its budget submitted pursuant to § 49-2-203, the per pupil amount of local money it will pass through to charter schools during the upcoming school year. Allocations to the charter schools during that year shall be based on the per pupil amount. The LEA shall distribute the portion of local funds it expects to receive in no fewer than nine (9) equal installments to the charter schools in the same manner as state funds are distributed pursuant to chapter 3 of this title. An LEA shall adjust payments to the charter schools, at a minimum, in October, February, and June, based on changes in revenue, student enrollment, or student services. All funds received by a charter school shall be spent according to the budget submitted or as otherwise revised by the public charter school governing body, subject to the requirements of state and federal law.

(b) The commission shall receive from the department or from the LEA in which the public charter school is located, as appropriate, an amount equal to the per pupil state and local funds received by the department or LEA for the students enrolled in a public charter school authorized by the commission. The commission shall receive, for the public charter schools the commission authorizes, all appropriate allocations of federal funds as received by other LEAs under federal law or regulation, including, but not limited to, Title I, IDEA, and ESEA funds. All funding allocations and disbursements must be made in accordance with procedures developed by the department.

(c) The state board of education shall promulgate rules and regulations that provide for the determination of the allocation of state and local funds as provided in subsection (a) and this subsection (c). Notwithstanding § 4-5-208, any rules promulgated under this subsection (c) may be promulgated as emergency rules in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5. At a minimum, the rules must provide that:

1) Allocations are based on one hundred percent (100%) of state and local funds received by the LEA, including current funds allocated for capital outlay purposes, excluding the proceeds of debt obligations and associated debt service; and

2)(A) With the exception of the annual authorizer fees provided under this chapter, a public charter school shall not be required to pay a fee or purchase any services from the authorizer. Public charter schools shall not be required to pay any fee as a condition for approval of a public charter school application by the authorizer or for recommendation for approval by authorizer staff or a committee established by the authorizer for the purposes of making recommendations for public charter school application decisions;

(B) A public charter school may choose to purchase services from an LEA, such as transportation or food services. In such event, the public charter school and the LEA shall execute a service contract, separate from the charter agreement, setting forth the mutual agreement of the parties concerning any service fees to be charged to the public charter school;
(C) A public charter school shall not pay any administrative fee to the authorizer for charter authorizing functions, except as provided through the annual authorizer fees mandated or permitted by this chapter; and

(D) If the charter agreement includes a provision whereby the authorizer will provide services for employee benefits or retirement, then the authorizer may withhold funds to cover the costs of the employee benefits or retirement services. If a services contract is executed with the authorizer, then the authorizer may withhold funds to cover the costs of the services.

(d) The department of education shall calculate and report the amount of state and local funding required under the BEP for capital outlay that each public charter school should receive in a fiscal year. The LEA shall include, in the per pupil funding amount required under subsection (a), all state and local funds generated under the BEP for capital outlay that are due to public charter schools operating in the LEA.

(e) Each authorizer is responsible for reporting and submitting funds to the appropriate retirement system, as required under § 8-35-242.

(f) A public charter school may also be funded by:

1. Federal grants;
2. Grants, gifts, devises or donations from any private sources;
3. State funds appropriated for the support of the public charter school, if any; and
4. Any other funds that may be received by the local school district.

Receipt of any such funds shall be reported to the authorizer. Public charter schools, the local board of education and the state department of education are encouraged to apply for federal funds appropriated specifically for the support of public charter schools.


(a) Participation in a public charter school shall be based on parental choice or the choice of the legal guardian or custodian.

(b) A public charter school authorized by the commission is open to any student residing within the geographic boundaries of the LEA in which the public charter school is located. A public charter school authorized by the commission may enroll students residing outside the geographic boundaries of the LEA in which the public charter school is located pursuant to the out-of-district enrollment policy of the LEA in which the public charter school is located and in compliance with §§ 49-6-3003 and 49-6-403(f), unless the LEA in which the public charter school is located has a policy prohibiting out-of-district enrollment.

(c) A public charter school authorized by a local board of education may enroll students residing outside the geographic boundaries of the LEA in which the public charter school is located pursuant to the LEA's out-of-district enrollment policy and in compliance with §§ 49-6-3003 and 49-6-403(f).

(d)(1) A public charter school shall enroll an eligible pupil who submits a timely application, unless the number of applications exceeds the capacity of a program, class, grade level, or building.

2. An enrollment preference shall be provided to students that attended the charter school during the previous school year.
(3) If the number of applications exceeds the capacity of a program, class, grade level, or building, the charter school shall select students through a lottery. The enrollment preference for returning students provided in subdivision (d)(2) shall exclude those students from entering into a lottery.

(4) If an enrollment lottery is conducted, a public charter school shall give enrollment preferences in the following order:

(A) Students enrolled in a pre-K program operated by the charter school sponsor;

(B) Students enrolled in a charter school that has an articulation agreement with the enrolling public charter school; provided, that the articulation agreement has been approved by the authorizer;

(C) Siblings of students already enrolled in the public charter school;

(D) [Deleted by 2019 amendment.]

(E) Students residing within the geographic boundaries of the LEA in which the public charter school is located who were enrolled in another public school during the previous school year; and

(F) Students residing outside the geographic boundaries of the LEA in which the public charter school is located.

(5) A public charter school may give an enrollment preference to children of a teacher or member of the governing body of the charter school, not to exceed ten percent (10%) of total enrollment or twenty-five (25) students, whichever is less.

(6) [Deleted by 2019 amendment.]

(7) [Deleted by 2019 amendment.]

(8)(A) A charter school shall provide to the department of education certification by an independent accounting firm or by a law firm that each lottery conducted for enrollment purposes complied with the requirements of this section. In lieu of such certification, a charter school may request that the department of education review and approve the lottery process.

(B) The charter school shall comply with the Family Educational Rights and Privacy Act (20 U.S.C. § 1232g), with respect to the publication of any students' names before, during, or after the enrollment and lottery process.

(9) The state board of education is authorized to promulgate rules concerning lottery enrollment. The rules shall be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(e) Public charter schools authorized by the achievement school district (ASD) shall conduct an initial student application period of at least thirty (30) days. During this period, all students zoned to attend or currently enrolled in a school that is eligible to be placed in the ASD may enroll. If, at the end of the initial student enrollment period, the number of eligible students seeking to enroll does not exceed the public charter school's capacity or the capacity of a program, class, grade level, or building, then the public charter school may enroll additional students residing within the geographic boundaries of the LEA in which the public charter school is located; provided, however, that a public charter school's total enrollment of such students shall not exceed twenty-five percent (25%) of the public charter school's total enrollment.
49-13-114. Transportation.

(a) If a public charter school elects to provide transportation for the public charter school’s students, then the transportation must be provided by the public charter school or by agreement with an LEA in accordance with chapter 6, part 21 of this title. If a public charter school elects to provide transportation other than through an agreement with an LEA, then the public charter school shall receive all funds that would have been spent by the LEA in which the public charter school is located to provide such transportation. If a public charter school elects not to provide transportation for the public charter school’s students, then the public charter school shall not receive the funds that would have otherwise been spent to do so.

(b) For students who reside outside the geographic boundaries of the LEA in which the public charter school is located and who have been approved by the public charter school’s governing body to attend the public charter school, the public charter school is not required to provide or pay for transportation.

(c) At the time a student enrolls in a public charter school, the public charter school shall provide the child’s parent or guardian with information regarding transportation.


(a) The department of education shall provide information to the public on how to form and operate a public charter school. This information must include a standard application format, which must include the information specified in § 49-13-107.

(b) The department of education shall monitor the status of charter school applications and shall maintain information on the total number of charter school applications, total number of charter school applications approved, total number of charter school applications denied and total number of charter school applications appealed and the status or outcome of the appeals.


(a) If a teacher employed by an LEA makes a written request for an extended leave of absence to teach at a public charter school, the LEA may grant the leave. Any extensions are at the discretion of the LEA. The leave shall be governed by chapter 5, part 7 of this title, including, but not limited to, reinstatement, notice of intention to return, seniority, salary and insurance.

(b)(1) The years of service acquired by a teacher while on a leave of absence to teach at a public charter school shall be used by the local board to obtain or determine tenure status; provided, that when the teacher returns to the traditional LEA from the charter school, the teacher receives two (2) consecutive years of evaluations demonstrating an overall performance effectiveness level of “above expectations” or “significantly above expectations” as required by § 49-5-504.

(2) If a teacher does not receive two (2) consecutive years of evaluations demonstrating an overall performance effectiveness level of “above expectations” or “significantly above expectations” pursuant to subdivision (b)(1), then the time the teacher was on leave of absence to teach at the public charter school shall not be used by the local board to determine tenure status of the teacher.

(c) For salary rating purposes, a teacher shall receive credit for years of
service acquired while teaching at a public charter school.

(d) This section applies to public charter schools authorized pursuant to this chapter.


(a) This section applies to public charter schools for which the state board of education is the authorizer.

(b) If the state board is the authorizer of a charter school, then the state board shall receive an annual authorizer fee of up to four percent (4%) of the charter school’s per student state and local funding as allocated under § 49-13-112(a) for the first two (2) school years in which the state board oversees charter schools. Beginning with the third school year in which the state board oversees charter schools and thereafter, the state board shall receive an annual authorizer fee of up to three percent (3%) of the charter school’s per student state and local funding as allocated under § 49-13-112(a).

(c) By April 1, of each year, the state board, or the state board’s designee, shall set the percentage of a charter school’s per student state and local funding that the state board shall receive as the annual authorizer fee for the next school year. This percentage shall apply to all charter schools for which the state board is the authorizer.

(d) The state board shall use the authorizer fee exclusively for fulfilling authorizing obligations in accordance with this chapter.

(e) If, for any school year, the total amount of authorizer fees collected by the state board exceeds the amount used by the state board to perform its authorizing duties, the state board shall distribute the amount remaining to its authorized charter schools. The state board shall develop a process to refund the unused fees to its authorized charter schools in the school year immediately following the school year in which the unused fees were collected by the state board.

(f) By December 1, of each year, the state board shall publicly report the total amount of authorizer fees collected in the previous school year and the authorizing obligations fulfilled using the fee. The report shall be posted on the state board’s web site.

(g) This section is repealed on July 1, 2021.

### 49-13-119. Group insurance.

Teachers, as defined in § 8-34-101, and other full-time permanent employees of a public charter school shall participate in the group insurance plans selected by the governing body of the public charter school. Public charter schools authorized by the achievement school district or the commission are entitled to participate in the state group insurance plans selected by the governing body of the public charter school in accordance with § 8-27-303.

### 49-13-120. Reporting requirements.

(a) The governing body of the public charter school shall make an annual progress report to the authorizer and to the commissioner of education. The report must contain the following information:
(1) The progress of the public charter school towards achieving the goals outlined in the school’s charter agreement;

(2) Financial records of the public charter school, including revenues and expenditures; and

(3) A detailed accounting, including the amounts and sources, of all funds received by the public charter school, other than the funds received under § 49-13-112(a).

(b) The reports made pursuant to subsection (a) shall be public information pursuant to § 10-7-504(a)(4). Based on the information provided to the commissioner of education under subsection (a), the commissioner shall prepare and submit an annual report on charter schools to education committees of the senate and the house of representatives.

(c) [Deleted by 2019 amendment.]

(d) In addition to the annual audit of accounts and records of its approved public charter schools pursuant to § 49-13-127, each authorizer shall submit an annual authorizing report to the department of education and state board of education by January 1 of each year. The report shall include the following items:

(1) The operating status of the charter schools approved by the authorizer with a designation of:
   (A) Approved but not yet open;
   (B) Open and operating;
   (C) Revoked, including the reason for revocation;
   (D) Non-renewed; or
   (E) Closed, including date of closing and the reason for closing;

(2) The oversight and contracted services, if any, provided by the authorizer to the charter schools approved by the authorizer; and

(3) A performance report for each public charter school it oversees, in accordance with the performance framework set forth in the charter agreement.

49-13-121. Renewal of charter — Voluntary closure.

(a) No later than April 1 of the year prior to the year in which the charter expires, the governing body of a public charter school seeking renewal shall submit a renewal application to the local board of education, if the local board of education is the authorizer, or to the commission or the local board of education, if the commission is the authorizer, on the standardized application form developed by the department of education.

(b) A public charter school renewal application must contain a report of the public charter school’s operations, including students’ standardized test scores, financial statements, and audits for the eight (8) years immediately preceding the date of the renewal application.

(c) Three (3) months prior to the date on which a public charter school is required to submit a renewal application, the authorizer shall submit to the public charter school a performance report that reflects the renewal evaluation.

(d) On or before the February 1 of the year in which the charter expires, the authorizer to which the renewal application was submitted shall rule by resolution to approve or deny the public charter school’s renewal application. The authorizer shall consider the renewal application, the annual progress
reports required under § 49-13-120, and the renewal performance report required under subsection (b) when deciding whether to approve or deny the public charter school’s renewal application.

(e)(1) Until 11:59 p.m. on December 31, 2020:

(A) A local board of education’s decision to deny a renewal application may be appealed by the governing body to the state board of education no later than ten (10) days after the date of the local board of education’s decision;

(B) If the state board of education finds that the local board of education’s decision to deny renewal of a charter agreement is contrary to the best interest of the students, LEA, or community, and the renewal application is for a public charter school in an LEA that does not contain a school on the current or last preceding priority school list, then the state board of education shall remand the decision to the local board of education with written instructions for approval of the renewal application. The local board of education shall remain the authorizer;

(C) If the state board of education finds that the local board of education’s decision not to renew a charter agreement was contrary to the best interests of the students, LEA, or community, and the renewal application is for a public charter school in an LEA that contains at least one (1) school on the current or last preceding priority school list, then the state board of education shall approve the renewal application and the state board of education shall be the authorizer; and

(D) A decision by the state board of education to deny the renewal of a charter agreement is final and is not subject to appeal.

(2) This subsection (e) is repealed at 11:59 p.m. on December 31, 2020.

(f) Beginning immediately upon the repeal of subsection (e):

(1) A local board of education’s decision to deny a renewal application may be appealed by the governing body to the commission no later than ten (10) days after the date of the local board of education’s decision;

(2) If the commission finds that the local board of education’s decision to deny renewal of a charter agreement is contrary to the best interest of the students, LEA, or community, then the commission shall approve the renewal application and the commission shall become the authorizer. A decision by the commission to deny the renewal charter agreement is final and is not subject to appeal; and

(3) If the commission approves the renewal of a charter agreement on appeal from a local board of education, then the public charter school and the commission shall enter into a renewed charter agreement in accordance with § 49-13-110(a).

(g) If a public charter school renewal application is approved, then the term of the renewed charter agreement shall be for ten (10) academic years.

(h) A decision to deny renewal of a charter agreement becomes effective at the close of the school year.

(i) No later than ten (10) days after an authorizer adopts a resolution to renew or deny renewal of a charter agreement, the authorizer shall report the authorizer’s decision to the department of education and shall provide a copy of the resolution that sets forth the authorizer’s decision and the reasons for the decision.

(j) If a public charter school voluntarily closes, then the public charter school’s agreement with the authorizer ceases to be effective as of the public
charter school’s closing date.

(k) The authorizer shall conduct an interim review of a public charter school in the fifth year of a public charter school’s initial period of operation and in the fifth year following any renewal of a charter agreement under guidelines developed by the department of education. The guidelines must require a public charter school to submit a report to the authorizer on the progress of the public charter school in achieving its goals and objectives, including student performance and other terms of the approved charter agreement.

49-13-122. Revocation of charter.

(a)(1) An authorizer may revoke a public charter school agreement if the public charter school receives identification as a priority school, as defined by the state’s accountability system pursuant to § 49-1-602, for 2017 or any year thereafter. The revocation takes effect immediately following the close of the school year in which the public charter school is identified as a priority school.

(2) If the authorizer does not revoke a public charter school agreement after a public charter school is identified as a priority school, then the public charter school must develop and implement a comprehensive support and improvement plan pursuant to § 49-1-602(b)(6).

(3) An authorizer shall revoke a public charter school agreement if the public charter school receives identification as a priority school for two (2) consecutive cycles beginning in 2017. The revocation takes effect immediately following the close of the school year in which the public charter school is identified as a priority school for the second consecutive cycle.

(4) The revocation of a public charter school agreement under subdivisions (a)(1) or (a)(3) is final and is not subject to appeal. A public charter school that is scheduled to close under this subsection (a) is entitled to a review by the department of education to verify the accuracy of the data used to identify the public charter school as a priority school.

(5) This subsection (a) does not prohibit an authorizer from revoking a charter agreement of a public charter school that fails to meet the minimum performance requirements set forth in the charter agreement.

(b) A public charter school agreement may be revoked at any time by the authorizer if the authorizer determines that the school:

(1) Committed a material violation of any conditions, standards, or procedures set forth in the charter agreement;

(2) Failed to meet or make sufficient progress toward the performance expectations set forth in the charter agreement; or

(3) Failed to meet generally accepted standards of fiscal management.

(c) Thirty (30) days prior to any decision by an authorizer to revoke a charter agreement, the authorizer shall notify the charter school in writing of the possibility of revocation and the reasons for such possible revocation.

(d) If the authorizer revokes a charter agreement, then the authorizer shall clearly state in writing the reasons for the revocation.

(e) No later than ten (10) days after an authorizer adopts a resolution to revoke a charter agreement, the authorizer shall report the authorizer’s decision to the department of education and shall provide a copy of the resolution that sets forth the authorizer’s decision and the reasons for the decision.
(f) (1) Until 11:59 p.m. on December 31, 2020, a local board of education’s decision to revoke a charter agreement may be appealed to the state board of education no later than ten (10) days after the date of the local board of education’s decision, except for revocations based on the violations specified in subsection (a). No later than sixty (60) days after the state board of education receives a notice of appeal and after the state board of education provides reasonable public notice, the state board of education, at a public hearing attended by the local board of education or the local board of education’s designated representative and held in the LEA in which the public charter school has been operating, shall conduct a de novo on the record review of the authorizer’s decision. In order to overturn a local board of education’s decision to revoke a charter agreement, the state board of education must find that the local board of education’s decision was contrary to § 49-13-122. If the state board of education overturns the local board of education’s decision to revoke a charter agreement, then the state board of education shall remand the decision to the local board of education and the local board of education shall remain the authorizer. The decision of the state board of education is final and is not subject to appeal. This subsection (f) only applies to decisions to revoke a charter agreement for which the local board of education is the authorizer.

(2) This subsection (f) is repealed at 11:59 p.m. on December 31, 2020.

(g) (1) Beginning immediately upon the repeal of subsection (f), a decision to revoke a charter agreement may be appealed to the commission no later than ten (10) days after the date of the decision, except for revocations based on the violations specified in subsection (a). No later than sixty (60) days after the commission receives a notice of appeal and after the commission provides reasonable public notice, the commission shall hold an open meeting in the LEA in which the public charter school has been operating to conduct a de novo on the record review of the local board of education’s decision. In order to overturn a local board of education’s decision to revoke a charter agreement, the commission must find that the decision was contrary to § 49-13-122. If the commission overturns the local board of education’s decision to revoke a charter agreement, then the commission shall remand the decision to the local board of education and the local board of education shall remain the authorizer. The commission’s decision is final and is not subject to appeal. This subsection (g) only applies to decisions to revoke a charter agreement for which the local board of education is the authorizer.

(2) This subsection (g) only applies to decisions to revoke a charter agreement for which the local board of education is the authorizer.

(h) Except in the case of fraud, misappropriation of funds, flagrant disregard of the charter agreement, or similar misconduct, a decision to revoke a charter agreement becomes effective at the close of the school year.

49-13-123. [Repealed.]


(a) The governing body of a public charter school may sue and be sued. The governing body may not levy taxes or issue bonds except in accordance with state law. A public charter school may conduct activities necessary and appropriate to carry out its responsibilities such as:

(1) Contract for services, except for the management or operation of the
charter school by a for-profit entity;
(2) Buy, sell or lease property;
(3) Borrow funds as needed; and
(4) Pledge its assets as security; provided, however, that those assets are not leased or loaned by the state or local government.

(b) The authorizer may endorse the submission of the school credit bond application to the local taxing authority, if the project is a qualified project under § 54E(c)(2) or § 54F(d)(1) of the Internal Revenue Code of 1986 (26 U.S.C. § 54E(c)(2) and 26 U.S.C. § 54F(d)(1), respectively), and the Tennessee State School Bond Authority Act, compiled in chapter 3, part 12 of this title, and with respect to § 54E(c)(2), the applicant can demonstrate that the applicant meets the ten percent (10%) matching funds requirement, as prescribed by § 54E(c)(2).


(a) The state board of education is authorized to promulgate rules for the administration of this chapter. Rules must be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(b) Notwithstanding any other provision of this chapter to the contrary, the commissioner of education shall promulgate rules and procedures for the authorization of charter schools by the achievement school district pursuant to this chapter. Rules must be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

49-13-128. Annual authorizer fee.

(a) Beginning with the 2018-2019 school year, if the local board of education is the authorizer of a charter school, then the local board shall receive an annual authorizer fee that is a percentage of the charter school’s per student state and local funding as allocated under § 49-13-112. The annual authorizer fee shall be the lesser of three percent (3%) of the annual per student state and local allocations or thirty-five thousand dollars ($35,000) per school.

(b) The LEA shall use the annual authorizer fee exclusively for fulfilling authorizing obligations in accordance with this chapter.

(c) If, for any school year, the total amount of authorizer fees collected by the LEA exceeds the amount used by the LEA to perform its authorizing obligations and responsibilities, the LEA shall distribute the amount remaining to its authorized public charter schools. The department shall develop a process to refund the unused fees to authorized public charter schools in the school year immediately following the school year in which the unused fees were collected by the LEA.

(d) If the achievement school district (ASD) authorizes a public charter school under § 49-1-614, then the ASD must receive an annual authorizer fee of up to three percent (3%) of the public charter school’s per pupil state and local funding as allocated under § 49-13-112(a). By May 1 of each year, the commissioner shall set the percentage of a public charter school’s per pupil state and local funding that the ASD must receive as the annual authorizer fee for the next school year.

(e) If the commission authorizes a public charter school under this chapter, then the commission must receive an annual authorizer fee of up to three percent (3%) of the public charter school’s per pupil state and local funding as
allocated under § 49-13-112(a). By May 1 of each year, the commission or the commission's designee shall set the percentage of a public charter school's per student state and local funding that the commission shall receive as the annual authorizer fee for the next school year. Notwithstanding subsection (b), the commission may use the commission's annual authorizer fee to fulfill obligations consistent with the authority of the commission as set forth in this chapter.

(f) By December 1 of each year, each LEA that collects an annual authorizer fee shall report the total amount of authorizer fees collected in the previous school year and the authorizing obligations fulfilled using the fee to the department of education. The department shall create a standard document for the purposes of this report and shall post the information on the department's website.

49-13-130. Closure of charter school.

Each authorizer shall have a procedure in place for the closure of a charter school prior to the decision to deny renewal or revoke a charter agreement. Closure of a charter school by each authorizer shall be in accordance with the following:

(1) Within one (1) calendar week of a decision to deny renewal or revoke a charter agreement, a charter school must notify in writing the parents or legal guardians of all students enrolled in the school of the closure decision;

(2) Within two (2) calendar weeks of an authorizer's decision to close a charter school, the authorizer shall meet with the school's governing body and leadership to establish a transition team composed of staff from the charter school, staff from the authorizer, and anyone else the authorizer deems necessary, who shall attend to the closure, including:

(A) The transfer of students;
(B) The release and transfer of student records to the authorizer or the department;
(C) The release and transfer of personnel records to the authorizer or the department;
(D) The submission of financial statements to the appropriate authorizer or department;
(E) The disposition of school funds;
(F) The disposition of school assets; and
(G) A school audit pursuant to § 49-2-112;

(3) Each authorizer and transition team shall, within thirty (30) days of the decision to close a charter school, communicate to the families of students enrolled in the school all other public school options for which the student is eligible to enroll;

(4) When a public charter school agreement has been denied renewal or revoked, the public charter school shall not enroll any new students. If the denial of renewal or revocation is overturned on appeal pursuant to § 49-13-122, then the public charter school may continue to enroll students;

(5) Each authorizer and transition team shall communicate regularly with the families of students enrolled in the school, as well as with school staff and other stakeholders, to keep them apprised of key information regarding the school's closing;
(6) Each authorizer and transition team shall ensure that current instruction of students enrolled in the school continues, pursuant to the charter agreement, for the remainder of the school year unless an immediate closure is ordered by the authorizer in accordance with § 49-13-122(h);

(7) Each authorizer and transition team shall ensure that all agencies, employees, insurers, contractors, creditors, debtors, and management organizations are properly notified of the closing of the charter school; and

(8) The governing body of the charter school shall continue to meet as necessary to wind down school operations, manage school finances, allocate resources, and facilitate the closure.

49-13-131. [Repealed.]

49-13-132. List of student names, ages, addresses, dates of attendance and grade levels completed.

To effectuate § 49-13-113, within thirty (30) days of receiving a request from an authorizer or a public charter school approved to operate one (1) or more schools within the geographic boundaries of the LEA, the LEA shall provide at no cost a list of student names, ages, addresses, dates of attendance, and grade levels completed in accordance with § 10-7-504 and the Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. § 1232g). Such information shall not be released by the receiving entity to outside parties without prior written consent from the parent or eligible student. Each recipient of such information shall adopt and implement a policy allowing parents or eligible students to decline to receive further information from the charter school.

49-13-133. [Repealed.]

49-13-136. Use of capital outlay funds — Contracting for goods and services — Underutilized and vacant properties.

(a) Charter schools may use capital outlay funds for the following purposes:

(1) Purchase, lease-purchase, or lease of real property;

(2) Purchase, lease-purchase, or lease of school facilities;

(3) Construction or renovation of school facilities, including renovation, rehabilitation, or alteration of existing facilities to comply with applicable codes and health and safety standards necessary to use the property or facility, or to make the property or facility useful;

(4) Purchase, lease-purchase, or lease of any tangible or intangible property, including furniture, computers for a computer lab, science lab equipment, or other equipment if such purchase is necessary to use the property or facility, or to make the property or facility useful; and

(5) Pay debt service on any transaction authorized under this subsection (a).

(b) A public charter school may contract with the LEA or any third party for the provision of goods and services necessary to use the property or facility or to make the property or facility useful.

(c)(1) No later than October 1, in any LEA in which one (1) or more charter schools operates, the LEA shall catalog each year all underutilized or vacant properties owned or operated by the LEA and all underutilized or vacant properties within any educational facility owned or operated by the LEA.
The LEA shall submit a comprehensive listing of all such properties to the department of education and the comptroller of the treasury. The department shall make an LEA’s list available to any charter school operating in the LEA or to any sponsor seeking to establish a public charter school in the LEA.

(2) An LEA having underutilized or vacant properties shall make the underutilized or vacant properties available for use by charter schools operating in the LEA. Any lease agreement executed between a charter school and an LEA shall not reflect any outstanding bonded debt on the underutilized or vacant property, except as agreed upon to reflect any necessary costs associated with the occupation or remodeling of the facility.

(d) On or before October 11, 2011, the department shall adopt uniform guidelines to be used to determine what constitutes the irregular or intermittent use of property by an LEA. In any LEA in which one (1) or more charter schools operates, the LEA shall use such guidelines to catalog all underutilized or vacant properties owned or operated by the LEA.

(e) Nothing in this section is intended to frustrate an LEA’s ability to plan for the use of underutilized or vacant properties owned or operated by the LEA. In any LEA in which one (1) or more charter schools operates, the LEA shall submit each year its plans for the use of underutilized or vacant properties owned or operated by the LEA in its annual report to the department of education and the comptroller of the treasury.

(f) At least sixty (60) days prior to the opening of the public charter school, the charter sponsor shall submit the physical address of the public charter school to the authorizer and the department of education. If a public charter school has not secured a physical location for its school at least sixty (60) days prior to opening, then the public charter school must seek a delay in opening pursuant to § 49-13-110(b).

49-13-138. [Repealed.]

49-13-139. [Repealed.]

49-13-140. [Repealed.]

49-13-141. LEAs sponsoring public charter schools.

Notwithstanding any law to the contrary, an LEA may be the sponsor of a public charter school. If an LEA sponsors a public charter school, then the commission serves as the authorizer.

49-13-142. Oversight and monitoring of charter schools authorized by state board upon appeal from denial of approval of a charter school application by certain LEAs.

(a) [Effective until July 1, 2021. See subsection (i)] This section shall only apply to charter schools authorized by the state board of education upon appeal from a denial of approval of a charter school application by an LEA that contains at least one (1) priority school on the current or last preceding priority school list.

(b) [Effective until July 1, 2021. See subsection (i)]

(1) Except as provided in subdivision (b)(3), oversight and monitoring of charter schools authorized by the state board of education shall be performed
by the state board. As requested, the department of education shall assist
the state board with general oversight of any charter school authorized by
the state board.

(2) A charter school authorized by the state board shall continue to be
overseen and monitored by the state board notwithstanding the subsequent
removal of all schools in an LEA from the priority school list; provided,
however, that in the case of a charter school authorized by the state board
but renewed by the LEA in accordance with § 49-13-121, the LEA becomes
the authorizer and shall be responsible for oversight and monitoring of the
charter school.

(3) A charter school authorized by the state board and the LEA in which
the charter school is located may, within thirty (30) calendar days of such
authorization, mutually agree that the charter school shall be oversee and
monitored by the LEA. Any such agreement shall be filed with the state
board in a manner prescribed by the state board. This subdivision (b)(3) shall
also apply to charter schools renewed on appeal by the state board.

(c) [Effective until July 1, 2021. See subsection (i)]

(1) Except as provided in subdivision (c)(2), for accountability purposes
under § 49-1-602, the performance of a charter school authorized by the
state board of education shall not be attributable to the LEA.

(2) If a charter school authorized by the state board and the LEA in which
the charter school is located mutually agree that the charter school shall be
overseen and monitored by the LEA pursuant to subdivision (b)(2), then, for
accountability purposes under § 49-1-602, the performance of the charter
school shall be attributable to the LEA.

(d) [Effective until July 1, 2021. See subsection (i)] The state board
shall receive from the department of education or from the LEA in which the
charter school is located, as appropriate, an amount equal to the per student
state and local funds received by the department or the LEA in which the
charter school is located for the students enrolled in a charter school autho-
rized by the state board. The state board shall receive for the charter schools
it authorizes all appropriate allocations of federal funds as do other LEAs
under federal law or regulations, including, but not limited to, Title I, IDEA,
and ESEA funds. All funding allocations and disbursements shall be made in
accordance with procedures developed by the department. Funding for charter
schools authorized by the state board shall be in accordance with §§ 49-13-112
and 49-13-118.

(e) [Effective until July 1, 2021. See subsection (i)] The department
shall determine the amount of the state BEP non-classroom component for
capital outlay to be distributed, according to § 49-13-112(c), to a charter school
authorized by the state board. The LEA shall pay to the department one
hundred percent (100%) of the required local match under the BEP for capital
outlay as a nonclassroom component for distribution to the charter school.

(f) [Effective until July 1, 2021. See subsection (i)] A charter school
authorized by the state board may contract with the LEA in which the school
operates for school support services or student support services, including, but
not limited to, food services and transportation.

(g) [Effective until July 1, 2021. See subsection (i)] The state board of
education is the LEA for all charter schools it authorizes.

(h)(1) On July 1, 2021, all charter agreements for which the state board of
education is the authorizer shall be transferred, for the remainder of the
unexpired term of the charter agreement, to the commission if documentation of mutual agreement to the transfer has been executed by the public charter school’s governing body and the commission.

(2) Documentation of mutual agreement must be in the form of a written agreement between the public charter school’s governing body and the commission. The agreement must include any modification or amendment of the charter agreement as may be mutually agreed upon by the public charter school’s governing body and the commission.

(3) On July 1, 2021, subject to documentation of mutual agreement, the commission shall assume all authorizer rights under charter agreements executed by the state board of education.

(4) The state board of education shall transfer to the commission all student records and public charter school performance data collected and maintained in the performance of the state board of education’s duties as an authorizer.

(5) The commission, in consultation with the governing body of a public charter school that is operating under a charter agreement that is to be transferred under this subsection (h), shall provide for timely notification of the transfer of the charter agreement, and any modifications or amendments to the charter agreement that are included in the written agreement executed under subdivision (h)(2), to parents or guardians of students enrolled in a public charter school affected by the transfer.

(6) If a public charter school’s governing body and the commission cannot reach a mutual agreement before July 1, 2021, then the charter agreement authorized by the state board of education terminates on July 1, 2021.

(i) Subsections (a)-(g) are repealed on July 1, 2021.

49-13-143. Performance framework.

(a) The performance-related provisions within a charter agreement shall be based on a performance framework that clearly sets forth the academic and operational performance indicators, measures, and metrics that will guide the authorizer’s evaluation of each public charter school. The department of education shall develop a model performance framework that includes, at a minimum, student academic performance, achievement gaps between major student subgroups, postsecondary readiness, and financial performance and sustainability.

(b) Authorizers may develop and adopt a performance framework for all schools authorized for operation, including both charter and non-charter public schools. If an authorizer has not adopted a performance framework for all of the authorizer’s schools, then it must adopt a performance framework aligned to the model performance framework developed by the department of education for the department’s charter schools.


(a) The state board of education shall ensure the effective operation of authorizers in this state and shall evaluate authorizer quality.

(b) In order to evaluate authorizer quality, the state board of education is authorized to conduct periodic evaluations of authorizers to determine authorizer compliance with the requirements of this chapter and with the rules and regulations of the state board of education, and to ensure alignment with the
state board of education's quality authorizing standards.

(c)(1) If the state board of education finds that an authorizer is not in compliance with the requirements of this chapter, the rules and regulations of the state board of education, or the state board of education's quality authorizing standards, then the state board of education shall provide the authorizer with written notification of the authorizer's noncompliance.

(2) The authorizer shall respond to the written notification no later than ten (10) business days after the date of the written notification and shall remedy the authorizer's noncompliance within the timeframe determined by the state board of education. An authorizer's failure to remedy the authorizer's noncompliance may result in a reduction of the authorizer fee provided in § 49-13-128, as determined by the state board of education.

(d) The state board of education is authorized to promulgate rules to effectuate this section. The rules must be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, part 2.

49-16-216. Part repealer. [Effective until June 30, 2023.]

This part is repealed effective June 30, 2023.

49-18-103. Enrollment in course access program courses.

(a) Beginning in the 2018-2019 school year, an eligible student may enroll in course access program courses.

(b)(1) A participating student may enroll in no more than two (2) course access program courses per school year, unless the student's home LEA approves the student to take additional courses. A home LEA may reject a student's course enrollment request if the course enrollment for the student does not comply with the requirements of this chapter.

(2) The student's home LEA shall pay the host LEA the tuition and fees required for the first two (2) course access program courses in which a participating student enrolls per school year.

(c) If the student's home LEA approves a student to take more than two (2) course access program courses in a school year, then:

(1) The student shall pay the host LEA any tuition and fees required for all additional courses; and

(2) The home LEA shall award credit to the student upon successful completion of the additional courses.

(d)(1) Home LEAs shall inform students and their parents or legal guardians of their right to appeal, in writing, to the governing body of the home LEA from any denial of course enrollment.

(2) The governing body of a home LEA shall develop a policy for hearing appeals from denials of course enrollments.

(3)(A) The Tennessee school boards association (TSBA) is encouraged to develop a model policy for adoption by local boards of education. If TSBA does not develop a model policy or the local board of education does not adopt the TSBA's model policy, then the local board of education shall submit its policy to the commissioner for approval.

(B) The governing body of a charter school that is a home LEA may adopt the TSBA model policy, if TSBA develops a model policy, or develop its own policy. If the governing body develops its own policy, it shall submit the policy to its chartering authority for approval.

(e) An eligible student may enroll in courses provided through the course
access program only if the student meets all prerequisites for the course and the student is unable to enroll in a comparable course at the student's school because either a comparable course is not offered or a legitimate situation exists that prevents the student from enrolling in a comparable course. The state board may approve and adopt additional enrollment requirements.

49-50-301. [Repealed.]

49-50-302. [Repealed.]

49-50-303. [Repealed.]

49-50-304. [Repealed.]

49-50-305. [Repealed.]

49-50-306. [Repealed.]

49-50-307. [Repealed.]

49-50-801. Church-related schools.

(a) As used in this section, unless the context otherwise requires, “church-related school” means a school operated by denominational, parochial or other bona fide church organizations that are required to meet the standards of accreditation or membership of the Tennessee Association of Christian Schools, the Association of Christian Schools International, the Tennessee Association of Independent Schools, the Southern Association of Colleges and Schools, the Tennessee Association of Non-Public Academic Schools, the Tennessee Association of Church Related Schools, the Association of Classical and Christian Schools, the Tennessee Alliance of Church Related Schools, or a school affiliated with Accelerated Christian Education, Inc.

(b) The state board of education and local boards of education are prohibited from regulating the selection of faculty or textbooks or the establishment of a curriculum in church-related schools.

(c) The state board of education and local boards of education shall not prohibit or impede the transfer of a student from a church-related school to a public school of this state. Local boards may, however, place students transferring from a church-related school to a public school in a grade level based upon the student's performance on a test administered by the board for that purpose. In local school systems where the local board of education requires tests for students transferring to that system from another public school system, the same test shall be administered to students transferring to such system from church-related schools.

(d) Church-related schools shall be conducted for the same length of term as public schools.

(e)(1) Nothing in this section shall be interpreted as prohibiting church-related schools from voluntarily seeking approval by the state board of education nor prohibiting the state board of education from extending such approval when it is voluntarily sought.

(2) This section does not prohibit a non-public school that meets the standards of accreditation of one (1) or more of the organizations identified
in subsection (a) from operating as a Category II non-public school if the school meets the requirements established by the department of education and the state board of education for a Category II non-public school.


(a) There is created the Tennessee public television council.

(b) The membership of the council shall consist of the general manager of each of the eligible stations in this state as defined in this part. If a general manager has an impairment that prevents the general manager’s attendance in work on the council, then the general manager may appoint a designee to attend as the general manager’s representative.

(c) Any station failing to participate actively in the work of the council or attempting to subvert its joint corporate activity may be expelled from the council by majority vote of its members and may not participate in deliberations concerning the funding formula to be proposed by the council in the next year, as provided in this part. The exclusion shall be for a period of one (1) year, but may be renewed in the event the station fails to evidence cooperative and supportive activity. Notwithstanding any other provisions of this part, no station that has failed to participate in deliberations concerning the proposed funding formula, by virtue of expulsion, shall have any right to a grant unless a grant to the station is specifically included in the proposal of the council when the proposal is made to the general assembly. It is the intention of the general assembly to provide incentives to individual stations to support the joint corporate activity of the council and to discourage self-serving, noncooperative activity by individual stations.

(d) Beginning on July 1, 1987, the council shall have responsibility for:

(1) Coordinating and facilitating cooperation between Tennessee public television stations;

(2) Acting as liaison between the stations and the legislative and executive branches of government; and

(3) Submitting annual reports of service provided and requests for appropriations to the governor, the chair of the government operations committee of the senate, the chair of the government operations committee of the house of representatives, and other appropriate committees of the general assembly.


(a)(1) The commissioner of education may organize and supervise schools and classes according to the rules and standards established for the conduct of schools and classes of the public school system in this state in all institutions wholly or partly supported by this state that are not supervised by public school authorities.

(2) Schools and classes established in wholly state-owned institutions must be financed by the department of education.

(b) The state board of education shall direct the department of education to manage and control the Tennessee School for the Blind, Tennessee School for the Deaf, West Tennessee School for the Deaf, and Alvin C. York Agricultural Institute. The department of education may:
(1) Select and employ directors of schools, teachers, officers, and other employees for state special schools, including school counselors consistent with the requirements for LEAs set forth in § 49-6-303;

(2) Determine the salary and terms of employment for employees of state special schools;

(3) Recommend curricula for state special schools;

(4) Recommend to the state board of education for approval:
   (A) Standards and policies for the minimum requirements for admission to, and discharge from, state special schools; and
   (B) Rules to achieve for the school year a duty-free lunch period for all teachers, kindergarten through grade twelve (K-12), of at least the length of the student lunch period, during which time the teacher has no other assigned responsibilities;

(5) Receive donations of money, property, or securities from any source for the benefit of the institutions named in this subsection (b), which funds it shall, in good faith, disburse in accordance with the conditions of the gifts. Subject to the terms and conditions of legislative appropriations therefore, the department shall have the power to purchase land, condemn land, erect buildings and equip the buildings for the schools on such terms as it may deem advisable and advantageous and to pay for the property out of funds appropriated or donated to or for the schools. The department shall be vested with title to property so purchased or acquired;

(6) Administer the Tennessee School for the Blind, the Tennessee School for the Deaf, the West Tennessee School for the Deaf, and the Alvin C. York Agricultural Institute and to exercise with respect to these schools all the powers conferred upon it by § 12-1-109;

(7) Approve the budgets of the Tennessee School for the Blind, the Tennessee School for the Deaf, the West Tennessee School for the Deaf, and the Alvin C. York Agricultural Institute; and

(8) Employ at the Tennessee School for the Blind, the Tennessee School for the Deaf, the West Tennessee School for the Deaf, and the Alvin C. York Agricultural Institute at least one (1) employee who is a certified cardiopulmonary resuscitation (CPR) instructor. Such person shall be responsible for training other members of the school in CPR.

(c) For the purposes of this part:
   (1) “Commissioner” means the commissioner of education; and
   (2) “Department” means the department of education.

(d) The state board of education shall promulgate rules providing employees of the Tennessee School for the Blind, the Tennessee School for the Deaf, the West Tennessee School for the Deaf, the Alvin C. York Agricultural Institute, and any other special school hereafter established, the right to appeal to the board decisions of the commissioner relative to adverse job actions. Rules must be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5. Appeals filed pursuant to the rules promulgated under this section are contested cases under title 4, chapter 5, part 3.
49-50-1002. Budgetary, accounting, and financial reporting procedures — Carryover of funds.

(a) The department of finance and administration shall prescribe the budgetary, accounting, and financial reporting procedures for the Tennessee School for the Blind, the Tennessee School for the Deaf, the West Tennessee School for the Deaf, and the Alvin C. York Agricultural Institute.

(b) The department of education is authorized to carry over a maximum of ten percent (10%) of the total appropriated funds for operation of the state special schools system. This shall not affect the next year’s appropriation. The department of education is authorized to utilize a part of this budget for the purposes of securing and utilizing federal grants.


(a) The several appropriations of state funds annually made for the operation and maintenance of the Tennessee School for the Blind, the Tennessee School for the Deaf, the West Tennessee School for the Deaf, the Alvin C. York Agricultural Institute, and other special schools operated by the department of education as may hereafter be created shall be administered and expended under budgets approved by the department of education.

(b) The schools referenced in subsection (a) may award scholarships for the school’s graduates. The graduates must be selected by the respective director of schools under the approval of the commissioner.

(c) The department shall obligate and expend appropriations for the capital improvement of the state special schools.

(d) The salary schedules for teachers and other professional personnel in the state special schools must be reasonably comparable to those currently in effect in the LEAs where the respective institution is located, but the salaries must be paid solely out of the state appropriations made to the respective institutions.


(a) The school for the instruction of students who are blind or visually impaired in Nashville shall be a body corporate by the name of “Tennessee School for the Blind.”

(b) The corporation has the right to:

1. Sue in law or equity;
2. Receive donations of money from any source for the benefit of the school;
3. Take and hold property, real and personal, for its use and benefit as a school; and
4. Have a seal and such corporate rights and powers as are necessary and proper to effect the end of its creation, the education of students who are blind or visually impaired.

(c) The land, buildings, and appurtenances used by the Tennessee School for the Blind are the property of this state.

(d) The commissioner may:

1. Administer and manage the household and domestic affairs of the school;
2. Implement policies and guidelines of the state board of education
relative to the school; and

(3) Establish a work training program for adults who are blind or visually impaired.

(e) Any student three (3) through twenty-one (21) years of age, both inclusive, who is a resident of this state and who has a visual impairment, including either partial sight or blindness, even with correction, that adversely affects the student’s educational performance is eligible for admission to the Tennessee School for the Blind.

(f) The director of schools for the Tennessee School for the Blind may admit eligible students who have been evaluated and referred by the student’s individualized education program team, as defined by § 49-10-102, for services at the school as the most appropriate placement within the least restrictive environment.

(g) Students admitted to the Tennessee School for the Blind who are residents of this state shall not be charged tuition.

(h) The Tennessee School for the Blind is authorized to implement programs and install facilities for career and technical education.


(a) The state school for the education of students who are deaf or hearing impaired, located in the city of Knoxville, shall be a body corporate by the name of “Tennessee School for the Deaf.” The state school for the education of students who are deaf or hearing impaired, located in the city of Jackson, shall be a body corporate by the name of “West Tennessee School for the Deaf.”

(b) Each corporation has the right to:

1. Sue in law or equity;
2. Receive donations of money from any source for the benefit of the school;
3. Take and hold property, real and personal, for its use and benefit as a school; and
4. Have a seal and such corporate rights and powers as are necessary and proper to effect the end of its creation, the education of students who are deaf.

(c) The commissioner may:

1. Administer and manage the household and domestic affairs of the schools; and
2. Implement policies and guidelines of the state board of education relative to the schools.

(d) The land, buildings, and appurtenances used by the Tennessee School for the Deaf and the West Tennessee School for the Deaf are the property of this state.

(e) Any student three (3) through twenty-one (21) years of age, both inclusive, who is a resident of this state and who has a hearing impairment that adversely affects the student’s educational performance is eligible for admission to the Tennessee School for the Deaf or the West Tennessee School for the Deaf.

(f) The director of schools for the Tennessee School for the Deaf and the West Tennessee School for the Deaf may admit eligible students who have been evaluated and referred by the student’s individualized education program team, as defined by § 49-10-102, for services at the school as the most
appropriate placement within the least restrictive environment.

(g) Students admitted to the Tennessee School for the Deaf or the West Tennessee School for the Deaf who are residents of this state shall not be charged tuition.

49-50-1006. Branch schools of school for the deaf.

(a) This state, acting through the state board of education and the commissioner of education, shall establish, maintain, and operate a school in Madison County for the hearing impaired children of west Tennessee.

(b) There shall also be a branch school of the school for the deaf located in Davidson County.

49-50-1007. Sharing of same president, director of schools, or officers prohibited.

The Tennessee School for the Blind, the Tennessee School for the Deaf, the West Tennessee School for the Deaf, and the Alvin C. York Agricultural Institute shall not share the same president, director of schools, or officers at the same time.

49-50-1008. Deaf mentor pilot project.

(a)(1) The Tennessee School for the Deaf, together with the West Tennessee School for the Deaf, shall establish a one-year deaf mentor pilot project to assist families and agencies in implementing bilingual and bicultural home-based programming for young children who are deaf, hard of hearing, or deaf-blind.

(2) The pilot project must consist of one (1) program to be implemented at the Tennessee School for the Deaf, Knoxville campus.

(3) The pilot project must focus on:
   (A) Preventing language deprivation;
   (B) Providing a positive impact on a child’s social and emotional development through a deaf role model; and
   (C) Ensuring that children who are deaf have equal access to learning opportunities at home and in the community.

(4) The pilot project must use a deaf mentor curriculum.

(5) The pilot project must provide hearing parents of children who are deaf, hard of hearing, or deaf-blind with the option of using a deaf mentor to expose the parents’ children to American Sign Language and deaf culture, allowing the children to grow and learn in a bilingual and bicultural milieu of hearing and deaf cultures instead of limiting the children’s exposure to a signed or spoken English-only environment and the hearing culture of the children’s families.

(b) Deaf mentors shall:

   (1) Make regular visits to the homes of young children who are deaf, hard of hearing, or deaf-blind;
   (2) Interact with the children using American Sign Language;
   (3) Demonstrate to family members how to use American Sign Language; and
   (4) Help families understand and appreciate deafness and deaf culture.

(c) The pilot project will begin with the 2019-2020 school year.

(d) At the end of the pilot project, the department of education shall
evaluate the pilot project to determine whether the pilot project should be continued or replicated. The department shall report its findings and conclusions to the education committee of the senate and the education committee of the house of representatives by no later than February 1, 2021.

50-1-502. Part definitions.

As used in this part:
(1) “Abusive conduct” means acts or omissions that would cause a reasonable person, based on the severity, nature, and frequency of the conduct, to believe that an employee was subject to an abusive work environment, such as:
   (A) Repeated verbal abuse in the workplace, including derogatory remarks, insults, and epithets;
   (B) Verbal, nonverbal, or physical conduct of a threatening, intimidating, or humiliating nature in the workplace; or
   (C) The sabotage or undermining of an employee’s work performance in the workplace;
(2) “Agency” means any department, commission, board, office or other agency of the executive, legislative or judicial branch of state government;
(3) “Employee” means an employee of any county, metropolitan government, municipality, or other political subdivision of this state;
(4) “Employer” means a private employer and a state or local governmental entity;
(5) “Harassment” means two (2) or more instances of contact serving no legitimate purpose directed at an employee, in connection with that person’s status as an employee, that a reasonable person would consider alarming, threatening, intimidating, abusive, or emotionally distressing and that does or reasonably could interfere with the performance of the employee’s duties; and
   (6) “Instance of contact” means a direct communication or physical touching.

50-1-504. Immunity of employer when policy adopted — Cause of action against employer not created.

(a) Notwithstanding § 29-20-205, if an employer adopts the model policy created by TACIR pursuant to § 50-1-503(a) or adopts a policy that conforms to the requirements set out in § 50-1-503(b), then the employer is immune from suit for any employee’s abusive conduct that results in negligent or intentional infliction of mental anguish. Nothing in this section limits the personal liability of an employee for any abusive conduct in the workplace.
(b) Nothing in this section creates a cause of action against an employer who does not adopt the model policy created by TACIR pursuant to § 50-1-503(a) or adopt a policy conforming to the requirements set out in § 50-1-503(b).

50-1-505. Injunction against person who commits harassment against employee.

A county, municipal, or metropolitan government may, through its attorney, seek an injunction against a person who commits harassment against an employee. The injunction may be sought in any court of competent jurisdiction
having the power to grant injunctions. Nothing in this section shall be
construed to authorize any cause of action unrelated to a person's status as an
employee.

50-2-111. Application of chapter. [Effective until January 1, 2020. See
the version effective on January 1, 2020.]

This chapter shall not apply to any individual who provides services as a
leased-operator or an owner-operator of a motor vehicle or vehicles under
contract to a common carrier doing an interstate business while engaged in
interstate commerce regardless of whether the common law relationship of
master and servant exists; provided, that this chapter shall apply to those
employees of the common carrier who do not provide services as a leased-
operator or an owner-operator of a motor vehicle or vehicles under contract to
a common carrier doing interstate business while engaged in interstate
commerce.

50-2-111. Application of chapter. [Effective on January 1, 2020. See the
version effective until January 1, 2020.]

(a) This chapter only applies to an individual if the individual performs
services for an employer for wages and the services performed by the individual
qualify as an employer-employee relationship with the employer based upon
consideration of the following twenty (20) factors as described in the twenty-
factor test of Internal Revenue Service Revenue Ruling 87-41, 1987-1 C.B. 296:

   (1) Instructions. A worker who is required to comply with other persons' instructions about when, where, and how the worker is to work is ordinarily
   an employee. This control factor is present if the person or persons for whom
   the services are performed have the right to require compliance with
   instructions;

   (2) Training. Training a worker by requiring an experienced employee to
   work with the worker, by corresponding with the worker, by requiring the
   worker to attend meetings, or by using other methods indicates that the
   person or persons for whom the services are performed want the services
   performed in a particular method or manner;

   (3) Integration. Integration of the worker's services into the business
   operations generally shows that the worker is subject to direction and control.
   When the success or continuation of a business depends to an appreciable
   degree upon the performance of certain services, the workers who perform
   those services must necessarily be subject to a certain amount of control by the
   owner of the business;

   (4) Services rendered personally. If the services must be rendered
   personally, then presumably the persons for whom the services are performed
   are interested in the methods used to accomplish the work as well as in the
   results;

   (5) Hiring, supervising, and paying assistants. If the person or
   persons for whom the services are performed hire, supervise, and pay
   assistants, then that factor generally shows control over the workers on the
   job. However, if one (1) worker hires, supervises, and pays the other assistants
   pursuant to a contract under which the worker agrees to provide materials
   and labor and under which the worker is responsible only for the attainment
   of a result, then this factor indicates an independent contractor status;
(6) **Continuing relationship.** A continuing relationship between the worker and the person or persons for whom the services are performed indicates that an employer-employee relationship exists. A continuing relationship may exist where work is performed at frequently recurring although irregular intervals;

(7) **Set hours of work.** The establishment of set hours of work by the person or persons for whom the services are performed is a factor indicating control;

(8) **Full time required.** If the worker must devote substantially full time to the business of the person or persons for whom the services are performed, then the person or persons have control over the amount of time the worker spends working and impliedly restrict the worker from doing other gainful work. An independent contractor is free to work when and for whom the independent contractor chooses;

(9) **Doing work on employer’s premises.** If the work is performed on the premises of the person or persons for whom the services are performed, then that factor suggests control over the worker, especially if the work could be done elsewhere. Work done off the premises of the person or persons receiving the services, such as at the office of the worker, indicates some freedom from control. However, this fact by itself does not mean that the worker is not an employee. The importance of this factor depends on the nature of the service involved and the extent to which an employer generally would require that employees perform those services on the employer’s premises. Control over the place of work is indicated when the person or persons for whom the services are performed have the right to compel the worker to travel a designated route, to canvass territory within a certain time, or to work at specific places as required;

(10) **Order or sequence set.** If a worker must perform services in the order or sequence set by the person or persons for whom the services are performed, then that factor shows that the worker is not free to follow the worker’s own pattern of work but instead must follow the established routines and schedules of the person or persons for whom the services are performed. Often, because of the nature of an occupation, the person or persons for whom the services are performed do not set the order of the services or set the order infrequently. It is sufficient to show control, however, if the person or persons retain the right to do so;

(11) **Oral or written reports.** A requirement that the worker submit regular or written reports to the person or persons for whom the services are performed indicates a degree of control;

(12) **Payment by hour, week, month.** Payment by the hour, week, or month generally points to an employer-employee relationship; provided, that this method of payment is not just a convenient way of paying a lump sum agreed upon as the cost of a job. Payment made by the job or on straight commission generally indicates the worker is an independent contractor;

(13) **Payment of business or traveling expenses.** If the person or persons for whom the services are performed ordinarily pay the worker's business or traveling expenses, then the worker is ordinarily an employee. An employer, to be able to control expenses, generally retains the right to regulate and direct the worker’s business activities;

(14) **Furnishing of tools and materials.** The fact that the person or persons for whom the services are performed furnish significant tools, materials, and other equipment tends to show the existence of an employer-
employee relationship;

(15) **Significant investment.** If the worker invests in facilities that are used by the worker in performing services and are not typically maintained by employees, such as the maintenance of an office rented at fair value from an unrelated party, then that factor tends to indicate that the worker is an independent contractor. However, lack of investment in facilities indicates dependence on the person or persons for whom the services are performed for the facilities and the existence of an employer-employee relationship;

(16) **Realization of profit or loss.** A worker who can realize a profit or suffer a loss as a result of the worker’s services, in addition to the profit or loss ordinarily realized by employees, is generally an independent contractor but the worker who cannot is an employee. For example, if the worker is subject to a real risk of economic loss due to significant investments or a bona fide liability for expenses, such as salary payments to unrelated employees, then that factor indicates that the worker is an independent contractor. The risk that a worker will not receive payment for the worker’s services is common to both independent contractors and employees and does not constitute sufficient economic risk to support treatment as an independent contractor;

(17) **Working for more than one firm at a time.** If a worker performs more than de minimis services for multiple unrelated persons or firms at the same time, then that factor generally indicates that the worker is an independent contractor. However, a worker who performs services for more than one (1) person may be an employee of each of the persons, especially where such persons are part of the same service arrangement;

(18) **Making service available to general public.** The fact that a worker makes the worker’s services available to the general public on a regular and consistent basis indicates an independent contractor relationship;

(19) **Right to discharge.** The right to discharge a worker is a factor indicating that the worker is an employee and the person possessing the right is an employer. An employer exercises control through the threat of dismissal, which causes the worker to obey the employer’s instructions. An independent contractor cannot be fired so long as the independent contractor produces a result that meets the contract specifications; and

(20) **Right to terminate.** If the worker has the right to end the worker’s relationship with the person for whom the services are performed at any time the worker wishes without incurring liability, then that factor indicates an employer-employee relationship.

(b) Notwithstanding subsection (a), this chapter does not apply to an individual who provides services as a leased-operator or an owner-operator of a motor vehicle or vehicles under contract to a common carrier doing an interstate business while engaged in interstate commerce regardless of whether the common law relationship of master and servant exists.

50-3-103. Chapter definitions. [Effective until January 1, 2020. See the version effective on January 1, 2020.]

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

(1) “Administrator” means the chief administrative officer of the division of occupational safety and health of the department of labor and workforce development. For the purposes of all sections of this chapter other than
§§ 50-3-902 and 50-3-903, “administrator” includes any person appointed, designated or deputized to perform any duties under this chapter or to exercise the powers assigned to the administrator of the division of occupational safety and health under this chapter;

(2) “Commission” means the occupational safety and health review commission established pursuant to § 50-3-801;

(3) “Commissioner” or “commissioner of labor and workforce development” means the chief executive officer of the department of labor and workforce development. For the purposes of all sections of this chapter other than §§ 50-3-902 and 50-3-903, it includes any person appointed, designated or deputized to perform the duties or to exercise the powers assigned to the commissioner of labor and workforce development under this chapter, but does not include the person appointed as administrator;

(4) “Committee” means the occupational safety and health advisory committee established pursuant to § 50-3-204;

(5) “Department” means the department of labor and workforce development;

(6) “Division” or “division of occupational safety and health” means the division of occupational safety and health of the department;

(7) “Employee” means any person performing services for another under a contract of hire, including minors, whether lawfully or unlawfully employed, persons in executive positions, and shall include county, metropolitan and municipal government employees;

(8) “Employer” means a person engaged in a business who has one (1) or more employees and includes county, metropolitan and municipal governments;


(10) “Issue” means a category of like industrial, occupational or hazard groupings that affects the safety and health of employment or place of employment and is suggested by the groupings in the Code of Federal Regulations, title 29, chapter XVII, part 1910;

(11) “Person” means one (1) or more individuals, partnerships, associations, corporations, business trusts, legal representatives or any organized group of persons; and

(12) “Standard” means an occupational safety and health standard promulgated by the commissioner that requires conditions or the adoption or the use of one (1) or more practices, means, methods, operations or processes reasonably necessary or appropriate to provide safe and healthful employment and places of employment.

50-3-103. Chapter definitions. [Effective on January 1, 2020. See the version effective until January 1, 2020.]

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

(1) “Administrator” means the chief administrative officer of the division of occupational safety and health of the department of labor and workforce development. For the purposes of all sections of this chapter other than §§ 50-3-902 and 50-3-903, “administrator” includes any person appointed, designated or deputized to perform any duties under this chapter or to exercise the powers assigned to the administrator of the division of occupa-
tional safety and health under this chapter;
(2) “Commission” means the occupational safety and health review commission established pursuant to § 50-3-801;
(3) “Commissioner” or “commissioner of labor and workforce development” means the chief executive officer of the department of labor and workforce development. For the purposes of all sections of this chapter other than §§ 50-3-902 and 50-3-903, it includes any person appointed, designated or deputized to perform the duties or to exercise the powers assigned to the commissioner of labor and workforce development under this chapter, but does not include the person appointed as administrator;
(4) “Committee” means the occupational safety and health advisory committee established pursuant to § 50-3-204;
(5) “Department” means the department of labor and workforce development;
(6) “Division” or “division of occupational safety and health” means the division of occupational safety and health of the department;
(7) “Employee”:
(A) Means an individual who performs services for an employer for wages under a contract of hire if the services performed by the individual qualify as an employer-employee relationship with the employer based upon consideration of the following twenty (20) factors as described in the twenty-factor test of Internal Revenue Service Revenue Ruling 87-41, 1987-1 C.B. 296:
   (i) Instructions. A worker who is required to comply with other persons’ instructions about when, where, and how the worker is to work is ordinarily an employee. This control factor is present if the person or persons for whom the services are performed have the right to require compliance with instructions;
   (ii) Training. Training a worker by requiring an experienced employee to work with the worker, by corresponding with the worker, by requiring the worker to attend meetings, or by using other methods indicates that the person or persons for whom the services are performed want the services performed in a particular method or manner;
   (iii) Integration. Integration of the worker’s services into the business operations generally shows that the worker is subject to direction and control. When the success or continuation of a business depends to an appreciable degree upon the performance of certain services, the workers who perform those services must necessarily be subject to a certain amount of control by the owner of the business;
   (iv) Services rendered personally. If the services must be rendered personally, then presumably the persons for whom the services are performed are interested in the methods used to accomplish the work as well as in the results;
   (v) Hiring, supervising, and paying assistants. If the person or persons for whom the services are performed hire, supervise, and pay assistants, then that factor generally shows control over the workers on the job. However, if one (1) worker hires, supervises, and pays the other assistants pursuant to a contract under which the worker agrees to provide materials and labor and under which the worker is responsible only for the attainment of a result, then this factor indicates an independent contractor status;
(vi) **Continuing relationship.** A continuing relationship between the worker and the person or persons for whom the services are performed indicates that an employer-employee relationship exists. A continuing relationship may exist where work is performed at frequently recurring although irregular intervals;

(vii) **Set hours of work.** The establishment of set hours of work by the person or persons for whom the services are performed is a factor indicating control;

(viii) **Full time required.** If the worker must devote substantially full time to the business of the person or persons for whom the services are performed, then the person or persons have control over the amount of time the worker spends working and impliedly restrict the worker from doing other gainful work. An independent contractor is free to work when and for whom the independent contractor chooses;

(ix) **Doing work on employer's premises.** If the work is performed on the premises of the person or persons for whom the services are performed, then that factor suggests control over the worker, especially if the work could be done elsewhere. Work done off the premises of the person or persons receiving the services, such as at the office of the worker, indicates some freedom from control. However, this fact by itself does not mean that the worker is not an employee. The importance of this factor depends on the nature of the service involved and the extent to which an employer generally would require that employees perform those services on the employer's premises. Control over the place of work is indicated when the person or persons for whom the services are performed have the right to compel the worker to travel a designated route, to canvass territory within a certain time, or to work at specific places as required;

(x) **Order or sequence set.** If a worker must perform services in the order or sequence set by the person or persons for whom the services are performed, then that factor shows that the worker is not free to follow the worker's own pattern of work but instead must follow the established routines and schedules of the person or persons for whom the services are performed. Often, because of the nature of an occupation, the person or persons for whom the services are performed do not set the order of the services or set the order infrequently. It is sufficient to show control, however, if the person or persons retain the right to do so;

(xi) **Oral or written reports.** A requirement that the worker submit regular or written reports to the person or persons for whom the services are performed indicates a degree of control;

(xii) **Payment by hour, week, month.** Payment by the hour, week, or month generally points to an employer-employee relationship; provided, that this method of payment is not just a convenient way of paying a lump sum agreed upon as the cost of a job. Payment made by the job or on straight commission generally indicates the worker is an independent contractor;

(xiii) **Payment of business or traveling expenses.** If the person or persons for whom the services are performed ordinarily pay the worker's business or traveling expenses, then the worker is ordinarily an employee. An employer, to be able to control expenses, generally retains the right to regulate and direct the worker's business activities;
(xiv) **Furnishing of tools and materials.** The fact that the person or persons for whom the services are performed furnish significant tools, materials, and other equipment tends to show the existence of an employer-employee relationship;

(xv) **Significant investment.** If the worker invests in facilities that are used by the worker in performing services and are not typically maintained by employees, such as the maintenance of an office rented at fair value from an unrelated party, then that factor tends to indicate that the worker is an independent contractor. However, lack of investment in facilities indicates dependence on the person or persons for whom the services are performed for the facilities and the existence of an employer-employee relationship;

(xvi) **Realization of profit or loss.** A worker who can realize a profit or suffer a loss as a result of the worker’s services, in addition to the profit or loss ordinarily realized by employees, is generally an independent contractor but the worker who cannot is an employee. For example, if the worker is subject to a real risk of economic loss due to significant investments or a bona fide liability for expenses, such as salary payments to unrelated employees, then that factor indicates that the worker is an independent contractor. The risk that a worker will not receive payment for the worker’s services is common to both independent contractors and employees and does not constitute sufficient economic risk to support treatment as an independent contractor;

(xvii) **Working for more than one firm at a time.** If a worker performs more than de minimis services for multiple unrelated persons or firms at the same time, then that factor generally indicates that the worker is an independent contractor. However, a worker who performs services for more than one (1) person may be an employee of each of the persons, especially where such persons are part of the same service arrangement;

(xviii) **Making service available to general public.** The fact that a worker makes the worker’s services available to the general public on a regular and consistent basis indicates an independent contractor relationship;

(xix) **Right to discharge.** The right to discharge a worker is a factor indicating that the worker is an employee and the person possessing the right is an employer. An employer exercises control through the threat of dismissal, which causes the worker to obey the employer’s instructions. An independent contractor cannot be fired so long as the independent contractor produces a result that meets the contract specifications; and

(xx) **Right to terminate.** If the worker has the right to end the worker’s relationship with the person for whom the services are performed at any time the worker wishes without incurring liability, then that factor indicates an employer-employee relationship; and

(B) Includes minors, whether lawfully or unlawfully employed; persons in executive positions; and county, metropolitan, and municipal government employees;

(8) “Employer” means a person engaged in a business who has one (1) or more employees and includes county, metropolitan and municipal governments;

(9) “Federal standard” means a standard adopted by a rule promulgated under § 6 of the federal Occupational Safety and Health Act of 1970, codified
as 29 U.S.C. § 655;

(10) “Issue” means a category of like industrial, occupational or hazard groupings that affects the safety and health of employment or place of employment and is suggested by the groupings in the Code of Federal Regulations, title 29, chapter XVII, part 1910;

(11) “Person” means one (1) or more individuals, partnerships, associations, corporations, business trusts, legal representatives or any organized group of persons; and

(12) “Standard” means an occupational safety and health standard promulgated by the commissioner that requires conditions or the adoption or the use of one (1) or more practices, means, methods, operations or processes reasonably necessary or appropriate to provide safe and healthful employment and places of employment.

50-6-218. Appointment of judges on the workers’ compensation appeals board.

(1) The governor, in consultation with the speaker of the house of representatives and the speaker of the senate, shall appoint three (3) qualified individuals to serve as judges on the workers’ compensation appeals board. Each individual selected shall be a Tennessee licensed attorney, with at least seven (7) years’ experience in workers’ compensation matters, shall be at least thirty (30) years of age, and shall be required to attend annual training on workers’ compensation laws.

(2) Upon appointment, each judge of the workers’ compensation appeals board shall serve a term of six (6) years and may be reappointed for an additional term by the governor upon expiration of the initial term. No judge appointed to the workers’ compensation appeals board shall serve more than two (2) full terms, and service of more than half of a six (6) year term shall constitute service of one (1) full term. Any judge appointed to the workers’ compensation appeals board to serve less than a full term to fill a vacancy created by the removal or resignation of a judge sitting on the workers’ compensation appeals board shall be eligible to serve an additional two (2) full terms. In the initial appointment of judges to the workers’ compensation appeals board, one (1) judge appointed shall serve a term of two (2) years, one (1) judge appointed shall serve a term of four (4) years, and one (1) judge appointed shall serve a term of six (6) years.

(3) The governor shall have authority to remove a judge sitting on the workers’ compensation appeals board during an unexpired term for the commission of any of the judicial offenses provided in § 17-5-301(j)(1).

(4) Any person appointed to serve as a judge on the workers’ compensation appeals board shall be required to take an oath or affirmation to support the constitutions of the United States and of this state, and to administer justice without respect of persons, and impartially to discharge all the duties incumbent upon a judge to the best of the judge’s skill and ability. The governor or any active or retired Tennessee judge or chancellor may administer the oath.

(5) No person appointed to serve as a judge on the workers’ compensation appeals board shall practice law, or perform any of the functions of attorney or counsel, in any of the courts of this state, except in cases in which the judge may have been employed as counsel previous to the appointment as a
judge on the workers' compensation appeals board. A newly appointed judge on the workers' compensation appeals board can practice law only in an effort to wind up the judge's practice and must end the practice of law as soon as reasonably possible and in no event longer than one hundred eighty (180) days after assuming the position of judge on the workers' compensation appeals board.


(a)(1) On or after July 1, 2013, the administrator shall appoint qualified individuals to serve as workers' compensation judges. Workers' compensation judges shall be Tennessee licensed attorneys in good standing with at least five (5) years experience in workers' compensation matters and shall be at least thirty (30) years of age. Workers' compensation judges shall be executive service employees of the state as defined in § 8-30-103.

(2)(A) In making the initial appointments, the administrator shall have authority to shorten and stagger the terms of workers' compensation judges to ensure that the terms of no more than seven (7) workers' compensation judges shall terminate at the same time.

(B) Except for the initial appointment of candidates to fill the position of workers' compensation judge, upon appointment, each workers' compensation judge shall serve a term of six (6) years. Terms shall begin on July 1 and expire six (6) years later, on June 30. No workers' compensation judge shall serve more than three (3) full terms, and service of more than half of a six (6) year term shall constitute service of one (1) full term. If a sitting workers' compensation judge is removed or resigns, a vacancy shall exist in the office, which shall be filled for the unexpired term by a person meeting the requirements of subdivision (a)(1).

(C) Any workers' compensation judge may be reappointed by the administrator upon expiration of the term.

(D) If a workers' compensation judge leaves the position prior to the expiration of the term, the administrator shall appoint an individual meeting the qualifications of this section to serve the unexpired portion of the term. The individual may be reappointed by the administrator upon expiration of the term. Any workers' compensation judge appointed to serve less than a full term to fill a vacancy created by the removal or resignation of a sitting workers' compensation judge shall be eligible to serve an additional three (3) full terms.

(3) It shall be the duty of a workers' compensation judge to hear and determine claims for compensation, to approve settlements of claims for compensation, to conduct hearings, and to make orders, decisions, and determinations. Workers' compensation judges shall conduct hearings in accordance with the Tennessee Rules of Civil Procedure, the Tennessee Rules of Evidence, and the rules adopted by the bureau and shall have authority to swear in witnesses at hearings and other court of workers' compensation claims functions, to issue subpoenas, and to compel obedience to their judgments, orders, and process through the assessment of a penalty
as provided in § 50-6-118.

(4) In any claim for workers’ compensation death benefits, a workers’ compensation judge shall have the authority to appoint a guardian ad litem consistent with § 37-1-149 and Tennessee Supreme Court Rule 40. For purposes of this section, “guardian ad litem” means a lawyer appointed by the court to advocate for the best interests of a child and to ensure that the child’s concerns and preferences are effectively advocated. The court shall have authority to award a reasonable fee for the services provided by the guardian ad litem, which shall be paid by the employer.

(b)(1) On or after July 1, 2013, the administrator shall appoint a qualified individual to serve as chief judge of the court of workers’ compensation claims. The individual shall be a Tennessee licensed attorney in good standing with at least seven (7) years experience in workers’ compensation matters. The chief judge shall be an executive service employee of the state as defined in § 8-30-103.

(2) In addition to performing the duties required of a workers’ compensation judge by subdivision (a)(3), it shall be the duty of the chief judge, under the rules adopted by the bureau, to administer the day to day operations of the court of workers’ compensation claims and supervise the activities of workers’ compensation judges.

(3) Upon appointment, the chief judge shall serve a term of six (6) years and may be reappointed by the administrator upon expiration of the term. No chief judge of the court of workers’ compensation claims shall serve more than two (2) full terms, and service of more than half of a six (6) year term shall constitute service of one (1) full term. Any chief judge of the court of workers’ compensation claims appointed to serve less than a full term to fill a vacancy created by the removal or resignation of the previous chief judge shall be eligible to serve an additional two (2) full terms.

(c) Unless otherwise provided by law or clearly inapplicable in context, the Tennessee Code of Judicial Conduct, Rule 10, Canons 1-4, of the Rules of the Tennessee Supreme Court, and any subsequent amendments thereto, shall apply to all workers’ compensation judges. However, any complaints regarding the conduct of a workers’ compensation judge under the code shall be made to the chief workers’ compensation judge. Any complaints about the chief judge shall be made to the administrator.

(d) The administrator shall have authority to remove a workers’ compensation judge or the chief judge during an unexpired term for the commission of any of the judicial offenses provided in § 17-5-301(j)(1).

(e) Any person appointed to serve as a workers’ compensation judge or as the chief judge shall be required to take an oath or affirmation to support the constitutions of the United States and of this state, and to administer justice without respect of persons, and impartially to discharge all the duties incumbent upon a judge to the best of the judge’s skill and ability. The governor, an active or retired Tennessee judge or chancellor, or an active or retired judge of the court of workers’ compensation claims or workers’ compensation appeals board may administer the oath.

(f) No workers’ compensation judge or chief judge shall practice law, or perform any of the functions of attorney or counsel, in any of the courts of this state, except in cases in which the judge may have been employed as counsel previous to the appointment as a workers’ compensation judge or chief judge. A newly appointed workers’ compensation judge or chief judge can practice law
only in an effort to wind up the judge’s practice and must end the practice of law as soon as reasonably possible and in no event longer than one hundred eighty (180) days after assuming the position of workers’ compensation judge or chief judge.

(g) When considering the appointment of an individual to serve as a workers’ compensation judge or as the chief judge, the administrator shall consider comment from the members of the business, labor and legal communities concerning the suitability of the individual for appointment as a workers’ compensation judge or the chief judge.

(h) On or after July 1, 2013, the administrator shall appoint a qualified individual to serve as the clerk of the court of workers’ compensation claims whose duty it shall be to perform all the clerical functions of the court. The clerk of the court of workers’ compensation claims shall be an executive service employee of the state as defined in § 8-30-103.

(i) The judges of the court of workers’ compensation claims shall have execution authority as provided in title 26.

50-7-207. “Employment” and related definitions. [Effective until January 1, 2020. See the version effective on January 1, 2020.]

(a) Definition of “Employment.” For purposes of this chapter and subject to the special rules contained in subsection (e), and the definitions contained in subsection (f), “employment” means service that meets all of the following conditions:

(1) It is within any category of “included service” as listed in subsection (b);
(2) It is not within any category of “excluded service” as listed in subsection (c); and
(3) It is within any category of “Tennessee service” as listed in subsection (d).

(b) “Included Service.” For purposes of this section, “included service” means any of the following:

(1) Service performed prior to January 1, 1978, that was employment as defined in this section prior to January 1, 1978;
(2) Subject to the other provisions of this section, service performed after December 31, 1977, including service in interstate commerce, by:
   (A) Any officer of a corporation;
   (B) Any individual who, under the usual common-law rules applicable in determining the employer/employee relationship, has the status of an employee; and
   (C) Any individual other than an individual described in subdivision (b)(2)(A) or (B) who performs services for remuneration for any person:
      (i) In either of the following capacities:
         (a) As an agent driver or commission driver engaged in distributing meat products, vegetable products, fruit products, bakery products, beverages other than milk, or laundry or dry-cleaning service, for the driver’s principal; or
         (b) As a traveling or city salesperson, other than as an agent driver or commission driver, engaged on a full-time basis in the solicitation on behalf of, and the transmission to, the salesperson’s principal, except for side-line sales activities on behalf of some other person, of
orders from wholesalers, retailers, contractors, or operators of hotels, restaurants, or other similar establishments for merchandise for resale or supplies for use in their business operations; and
(ii) In the presence of all of the following conditions:
   (a) The contract of service contemplates that substantially all of the services are to be performed personally by the individual;
   (b) The individual does not have a substantial investment in facilities used in connection with the performance of services other than in facilities for transportation; and
   (c) The services are not in the nature of a single transaction that is not part of a continuing relationship with the person for whom the services are performed;
(3) Except as provided in subdivision (c)(5), service performed by an individual:
   (A) After December 31, 1971 and prior to January 1, 1978, in the employ of this state or any of its instrumentalities, or in the employ of this state and one (1) or more other states or their instrumentalities, for a hospital or institution of higher education located in this state; provided, that the service is excluded from “employment” as defined in the federal Unemployment Tax Act, 26 U.S.C. § 3306(c)(7), and does not constitute “excluded employment” under subdivision (c)(5); and
   (B) After December 31, 1977, in the employ of this state or any of its instrumentalities or any political subdivision of the state or any of its instrumentalities or any instrumentality of more than one (1) of the foregoing or any instrumentality of any of the foregoing and one (1) or more other states or political subdivisions; provided, that the service is excluded from “employment” as defined in the federal Unemployment Tax Act, 26 U.S.C. § 3306(c)(7), and does not constitute “excluded employment” under subdivision (c)(5);
(4) Except as provided in subdivision (c)(5), service performed by an individual after December 31, 1977, in the employ of a religious, charitable, educational or other organization, but only if both of the following conditions are met:
   (A) The service is excluded from “employment” as defined in the federal Unemployment Tax Act, 26 U.S.C. § 3306(c)(8); and
   (B) The organization had four (4) or more individuals in employment for some portion of a day in each of twenty (20) different weeks, whether or not the weeks were consecutive, within either the current or preceding calendar year, regardless of whether they were employed at the same point in time;
(5) Service performed after December 31, 1971, by an officer or crew member of an American vessel or American aircraft or in connection with the American vessel or American aircraft; provided, that it meets the conditions of subdivision (d)(5);
(6) Notwithstanding subsection (c), service with respect to which a tax is required to be paid under any federal law imposing a tax against which credit may be taken for contributions required to be paid into a state unemployment fund or that as a condition for full credit against the tax imposed by the federal Unemployment Tax Act, compiled in 26 U.S.C. § 3301 et seq., is required to be covered by this chapter;
(7) Service performed after December 31, 1977, by an individual in
agricultural labor as defined in subdivision (f)(1); provided, that:

(A) The service is performed for a person who either:
   (i) During any calendar quarter in either the current or preceding calendar year paid remuneration in cash of twenty thousand dollars ($20,000) or more to individuals employed in agricultural labor, not taking into account service in agricultural labor performed before January 1, 1980, by an alien referred to in subdivision (b)(7)(B); or
   (ii) For some portion of a day in each of twenty (20) different calendar weeks, whether or not the weeks were consecutive, in either the current or the preceding calendar year, employed in agricultural labor ten (10) or more individuals, regardless of whether they were employed at the same point in time, not taking into account service in agricultural labor performed before January 1, 1980, by an alien referred to in subdivision (b)(7)(B);

(B) For purposes of this section, any individual who is a crew member furnished by a crew leader to perform service in agricultural labor for any other person shall be treated as an employee of the crew leader, if both of the following conditions are met:
   (i) Substantially all the members of the crew operate or maintain tractors, mechanized harvesting or cropdusting equipment or any other mechanized equipment, that is provided by the crew leader; and
   (ii) The individual is not an employee of the other person within the meaning of subdivision (a)(2);

(C) For the purposes of this subdivision (b)(7), in the case of any individual who is furnished by a crew leader to perform service in agricultural labor for any other person and who is not treated as an employee of the crew leader under subdivision (b)(7)(B), the following shall apply:
   (i) The other person and not the crew leader shall be treated as the employer of the individual; and
   (ii) The other person shall be treated as having paid cash remuneration to the individual in any amount equal to the amount of cash remuneration paid to the individual by the crew leader, either on the person’s own behalf or on behalf of the other person, for the service in agricultural labor performed for the other person;

(8) Domestic service performed after December 31, 1977, in a private home, local college club, or local chapter of a college fraternity or college sorority and performed for a person who paid cash remuneration of one thousand dollars ($1,000) or more after December 31, 1977, in any calendar quarter, to an individual or individuals employed in the domestic service in the current calendar year or the preceding calendar year;

(9) During the effective period of the election, service covered by an election pursuant to § 50-7-405 and service covered by an election duly approved by the administrator in accordance with an arrangement pursuant to § 50-7-405; or

(10) The entire service of an individual in the case of service that is not covered under this section and performed entirely without this state, with respect to no part of which contributions are required and paid under any unemployment compensation law of any other state or of the federal government; provided, that the individual performing the services is a resident of this state and the administrator approves the election of the
employing unit for which the services are performed.

(c) “Excluded Service.” For purposes of this section, “excluded service” means any of the following, unless the employing unit for which the service is performed is liable for a federal tax on the remuneration paid for the service against which credit may be taken for premiums paid under this chapter, or unless the employing unit has elected that the service shall be deemed to constitute employment subject to this chapter pursuant to § 50-7-405, in which cases the service shall be “included service” as provided in subsection (b):

1. Service performed in the employ of any other state or its political subdivisions, or of the United States government, or of an instrumentality of any other state or states or their political subdivisions or of the United States, except that after 1961, to the extent that the congress of the United States permits states to require any instrumentalities of the United States to make payments into an unemployment fund under a state employment security law, this chapter shall apply to those instrumentalities, and to service performed for the instrumentalities, in the same manner, to the same extent, and on the same terms as to all other employers, employing units, individuals, and service; provided, that, if this state is not certified for any year by the secretary of labor under the federal Unemployment Tax Act, 26 U.S.C. § 3304(c), the payments required of the instrumentalities with respect of that year shall be refunded by the commissioner for the fund in the same manner and within the same period as is provided in § 50-7-404(f) with respect to premiums erroneously collected;

2. Service performed after June 30, 1939, with respect to which unemployment compensation is payable under the Railroad Unemployment Insurance Act of Congress, 52 Stat. 1094, compiled in 45 U.S.C. § 351 et seq., and services with respect to which unemployment benefits are payable under an unemployment compensation system for maritime employees established by an act of congress; provided, that the commissioner is authorized and directed to enter into agreements with the proper agencies under the act of congress, which agreements shall become effective in the manner provided in § 50-7-603, to provide reciprocal treatment to individuals who have, after acquiring potential rights to benefits under this chapter, acquired rights for unemployment compensation under the act of congress, or who have, after acquiring potential rights to unemployment compensation under the act of congress, acquired rights to benefits under this chapter;

3. Except as provided in subsection (b), service performed by an individual in agricultural labor as defined in subdivision (f)(1);

4. Service performed by an individual in the employ of the individual’s son, daughter or spouse, and service performed by a child under eighteen (18) years of age in the employ of the child’s father or mother;

5. Notwithstanding subdivisions (b)(3) and (4), services performed:
   (A) In the employ of a church, convention or association of churches;
   (B) In the employ of an organization that is operated primarily for religious purposes and that is operated, supervised, controlled or principally supported by a church, convention or association of churches;
   (C) By a duly ordained, commissioned or licensed minister of a church in the exercise of the minister’s ministry or by a member of a religious order in the exercise of duties required by the religious order;
   (D) After December 31, 1977, in the employ of a governmental entity referred to in subdivision (b)(3) if the service is performed by an individual
in the exercise of duties:

(i) As an elected official;
(ii) As a member of a legislative body, or a member of the judiciary, of a state or political subdivision;
(iii) As a member of the state national guard or air national guard;
(iv) As an employee serving on a temporary basis in the case of fire, storm, snow, earthquake, flood or similar emergency; or
(v) In a position that, under or pursuant to the laws of this state, is designated as either:
   (a) A major nontenured policymaker or advisory position; or
   (b) A policymaking or advisory position the performance of the duties of which ordinarily does not require more than eight (8) hours per week;

(E) In a facility conducted for the purpose of carrying out a program of rehabilitation for individuals whose earning capacity is impaired by age or physical or mental deficiency or injury, or providing remunerative work for individuals who, because of their impaired physical or mental capacity, cannot be readily absorbed in the competitive labor market, by an individual receiving the rehabilitation or remunerative work;

(F) After December 31, 1977, in a custodial or penal institution by an inmate of the institution and, after June 30, 1999, by an inmate committed to a custodial or penal institution for any employer; or

(G) As part of an unemployment work-relief or work-training program assisted or financed in whole or in part by any federal agency or an agency of a state or political subdivision of a state, by an individual receiving the work-relief or work-training, unless otherwise required by the agency or by law governing the agency assisting or financing in whole or in part the unemployment work-relief or work-training program as a condition to the assistance or financing;

(6) Except to the extent set forth in subdivisions (b)(4) and (6), service performed in the employ of the corporation, community chest, fund or foundation, organized and operated exclusively for religious, charitable, scientific, literary or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual;

(7) Service performed by an individual for an employer as an insurance agent or as an insurance solicitor, if all the service performed by the individual for the employer is performed for remuneration solely by way of commission;

(8) Service performed in the employ of a school, college or university, if the service is performed:
   (A) By a student who is enrolled and is regularly attending classes at the school, college or university; or
   (B) By the spouse of the student, if the spouse is advised, at the time the spouse commences to perform the service, both that:
      (i) The employment of the spouse to perform the service is provided under a program to provide financial assistance to the student by the school, college or university; and
      (ii) The employment will not be covered by any program of unemployment insurance;

(9) Service performed by an individual who is enrolled at a nonprofit or public educational institution that normally maintains a regular faculty and
curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on, as a student in a full-time program, that is taken for credit and that combines academic instruction with work experience, if the service is an integral part of the program, and the institution has so certified to the employer, except that this subdivision (c)(9) does not apply to service performed in a program established for or on behalf of an employer or group of employers;

(10) Service performed in the employ of a hospital, if the service is performed by a patient of the hospital, as defined in subdivision (f)(7);

(11) Service performed by a qualified real estate agent if:
   (A) The individual is a licensed real estate agent;
   (B) Substantially all of the remuneration for the services performed as a real estate agent is directly related to sales or other output, including the performance of services, rather than the number of hours worked; and
   (C) The services performed by the individual are performed pursuant to a written contract between the individual and the person for whom the services are performed, and the contract provides that the individual will not be treated as an employee with respect to the services for federal tax (FUTA) purposes;

(12) Service performed by a direct seller, including an individual engaged in the trade or business of the delivery or distribution of newspapers or shopping news, if:
   (A) The individual is engaged in the trade or business of selling or soliciting the sale of consumer products to any buyer on a:
      (i) Buy-sell basis;
      (ii) Deposit-commission basis; or
      (iii) Any similar basis that the United States secretary of treasury prescribes by regulations, for resale by the buyer or any other individual, in the home or otherwise than in a permanent retail establishment; or
   (B) The individual is engaged in the trade or business of selling or soliciting the sale of consumer products to a consumer in the home or somewhere other than in a permanent retail establishment; and
      (i) Substantially all of the remuneration for the services performed as a direct seller is directly related to sales or output, including the performance of services, rather than to the number of hours worked; and
      (ii) The services performed by the individual are performed pursuant to a written contract between the individual and the person for whom the services are performed, and the contract provides that the individual will not be treated as an employee with respect to the services for federal tax (FUTA) purposes;

(13) Service performed by a full-time student in the employ of an organized camp, if:
   (A) The camp did not operate for more than seven (7) months in the calendar year and did not operate for more than seven (7) months in the preceding calendar year, or had average gross receipts for any six (6) months in the preceding calendar year that were not more than thirty-three and one third percent (33 1/3%) of its average gross receipts for the other six (6) months in the preceding calendar year;
   (B) The full-time student performed services in the employ of the camp for less than thirteen (13) calendar weeks in the calendar year; and
(C) For purposes of this subdivision (c)(13), an individual shall be treated as a full-time student for any period during which the individual is enrolled as a full-time student at an educational institution, or that is between academic years or terms if the individual was enrolled as a full-time student at an educational institution for the immediately preceding academic year or term, and there is reasonable assurance that the individual will be so enrolled for the immediately succeeding academic year or term;

(14) Service performed by an individual on a boat, or boats in the case of a fishing operation involving more than one (1) boat, engaged in catching fish or other forms of aquatic animal life under an arrangement with the owner or operator of the boat pursuant to which:

(A) The individual does not receive any cash remuneration, other than as provided in subdivision (c)(14)(B);

(B) The individual receives a share of the boat’s or boats’ catch of fish or other forms of aquatic animal life or a share of the proceeds from the sale of the catch;

(C) The amount of the individual’s share depends on the amount of the boat’s or boats’ catch of fish or other forms of aquatic animal life, but only if the operating crew of the boat, or each boat from which the individual receives a share in the case of a fishing operation involving more than one (1) boat, is normally made up of fewer than ten (10) individuals;

(15) Service performed by an individual as a product demonstrator pursuant to a written contract between the individual and a person whose principal business is providing demonstrators to third parties for those purposes, and the contract provides that the individual will not be treated as an employee with respect to the services;

(16) The service performed on or after January 1, 1995, by an individual who is an alien admitted to the United States to perform service in agricultural labor pursuant to §§ 101(a)(15)(H) and 214(c) of the Immigration and Nationality Act, codified in 8 U.S.C. §§ 1101(a)(15)(H) and 1184, respectively;

(17) After June 30, 1999, service performed by an election official or an election worker, if the amount of remuneration received by the individual during the calendar year for services as an election official or election worker is less than one thousand dollars ($1,000); and

(18)(A) Notwithstanding any provision of this chapter or any other law to the contrary, companion-sitters who receive referrals under registry or referral arrangements substantially similar to those addressed within the IRS determination shall not be classified as employees of the person, corporation or business entity pursuant to this chapter, unless the person, corporation or business entity and the department mutually agree to the reclassification of the companion sitters as employees of the person, corporation or business entity in order to absolve the elderly, sick or disabled clients or the parents of the children from liability for payment of any premiums, fees or other costs that may be imposed pursuant to the Tennessee Employment Security Law, if:

(i) A person, corporation or business entity maintains an employment registry or referral service exclusively for companion sitters seeking employment opportunities for providing personal attendant, companionship, household care, ancillary health care or related services to
children, the elderly, or sick or disabled clients;

(ii) The companion sitters do not provide personal attendant, companionship, household care, ancillary health care or related services for hire to nonprofit organizations, Indian tribes or state or local governments; and

(iii) Pursuant to the federal Insurance Contributions Act, the federal Unemployment Tax Act, or the collection of income tax at source on wages, chapters 21, 23 and 24, respectively, Subtitle C, Internal Revenue Code, compiled in 26 U.S.C. § 3101 et seq., 26 U.S.C. § 3301 et seq., and 26 U.S.C. § 3401 et seq., respectively, the Internal Revenue Service issues a determination that a companion-sitter is not an employee of the person, corporation or business entity under the typical registry or referral arrangements of the person, corporation or business entity;

(B) Subdivision (c)(18)(A) shall not be construed to require forgiveness or refund of any premiums, fees or other related costs duly imposed prior to July 1, 2004.

(d) “Tennessee Service.” For purposes of this section, “Tennessee service” means any of the following:

(1) Any individual’s entire service, performed within or both within and without this state, if the service is localized in this state. Service shall be deemed to be localized within a state if either:

(A) The service is performed entirely within the state; or

(B) The service is performed both within and without the state but the service performed without the state is incidental to the individual’s service within the state; for example, is temporary or transitory in nature or consists of isolated transactions;

(2) An individual’s entire service, performed within and without this state, if the service is not localized in any state but some of the service is performed in this state and:

(A) The individual’s base of operations is in this state; or

(B) If there is no base of operations, then the place from which the service is directed or controlled is in this state; or

(C) The individual’s base of operations or 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;

(3) Service wherever performed within the United States, or Canada, if both:

(A) The service is not covered under the unemployment compensation law of any other state or Canada; and

(B) The place from which the service is directed or controlled is in this state;

(4) Service that is performed after December 31, 1971, except service performed in Canada, by an individual who is a citizen of the United States and who is in the employ of an American employer, other than service that is deemed to be “Tennessee employment” under subdivisions (d)(1) and (2) or to be “employment” under the parallel provisions of another state’s law, if:

(A) The employer’s principal place of business in the United States is located in this state; or

(B) The employer has no place of business in the United States, but:

(i) The employer is an individual who is a resident of this state;
(ii) The employer is a corporation that is organized under the laws of this state; or
(iii) The employer is a partnership or a trust and the number of the partners or trustees who are residents of this state is greater than the number who are residents of any other state; or
(C) None of the criteria of subdivisions (d)(4)(A) and (B) are met, but the employer has elected coverage in this state or, the employer having failed to elect coverage in any state, the individual has filed a claim for benefits, based on the service under the laws of this state;
(5) Specifically in the case of included service described in subdivision (b)(5), service where the operating office from which the operations of the American vessel, operating on navigable waters within the United States, or the operations of the American aircraft within the United States, or the operations of both the vessel and the aircraft within and without the United States are ordinarily and regularly supervised, managed, directed and controlled is within this state; or
(6) Specifically in the case of included service described in subdivision (b)(10), service when the individual performing the service is a resident of this state.

(e) **Special Rules.** The following rules shall govern for purposes of this section:

(1) Service performed by an individual shall be deemed to be included service for purposes of this section regardless of whether the common law relationship of master and servant exists, unless and until it is shown to the satisfaction of the administrator that:
   (A) The individual has been and will continue to be free from control and direction in connection with the performance of the service, both under any contract for the performance of service and in fact;
   (B) The service is performed outside the usual course of the business for which the service is performed or is performed outside of all the places of business of the enterprise for which the service is performed; and
   (C) The individual is customarily engaged in an independently established trade, occupation, profession or business of the same nature as that involved in the service performed;
(2) Services performed by an individual who provides services as a leased-operator or an owner-operator of a motor vehicle or vehicles under contract to a common carrier conducting an interstate business while engaged in interstate commerce shall be deemed to be an excluded service for the purposes of this section, regardless of whether the common law relationship of master and servant exists, and regardless of whether the individual satisfies the requirements for included service as prescribed in subdivision (e)(1); provided, that this subdivision (e)(2) does not apply to services performed under subdivision (b)(3) or (b)(4); and
(3) It is the legislative intent that no elected official shall be eligible for benefits based upon service as an elected official.

(f) **Section Definitions.** The following words and terms have the following respective meanings for the purposes of this section, unless the context otherwise requires:

(1) “Agricultural labor” means remunerated service performed after December 31, 1971:
(A) On a farm, in the employ of any person, in connection with cultivating the soil, or in connection with the raising or harvesting of any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and fur-bearing animals and wildlife;

(B) In the employ of the owner or tenant or other operator of a farm, in connection with the operation, management, conservation, improvement or maintenance of the farm and its tools and equipment, or in salvaging timber or clearing land of brush and other debris left by a hurricane, if the major part of the service is performed on a farm;

(C) In connection with the production or harvesting of any commodity defined as an agricultural commodity in § 15(g) of the Agricultural Marketing Act, codified in 12 U.S.C. § 1141j, or in connection with the ginning of cotton, or in connection with the operation or maintenance of ditches, canals, reservoirs or waterways, not owned or operated for profit, and used exclusively for supplying and storing water for farming purposes;

(D) In the employ of either:
   (i) The operator of a farm in handling, planting, drying, packing, packaging, processing, freezing, grading, storing or delivering to storage or to market or to a carrier for transportation to market, in its unmanufactured state, any agricultural or horticultural commodity, but only if the operator produced more than one half (½) of the commodity with respect to which the service is performed; or
   (ii) In the employ of a group of operators of farms, or a cooperative organization of which the operators are members, in the performance of service described in subdivision (f)(1)(D)(i), but only if the operators produced more than one half (½) of the commodity with respect to which the service is performed; provided, that this subdivision (f)(1)(D) shall not be deemed to include service performed in connection with commercial canning or commercial freezing or in connection with any agricultural or horticultural commodity after its delivery to a terminal market for distribution for consumption; or

(E) On a farm operated for profit if the service is not in the course of the employer's trade or business or is not domestic service in a private home of the employer;

(2) “American aircraft” means an aircraft registered under the laws of the United States;

(3) “American employer” means a person who is:
   (A) An individual who is a resident of the United States;
   (B) A partnership, if two thirds (2/3) or more of the partners are residents of the United States;
   (C) A trust, if all of the trustees are residents of the United States; or
   (D) A corporation organized under the laws of the United States or of any state;

(4) “American vessel” means any vessel documented or numbered under the laws of the United States; and includes any vessel that is neither documented nor numbered under the laws of the United States nor documented under the laws of any foreign country, if its crew performs service solely for one (1) or more citizens or residents of the United States or corporations organized under the laws of the United States or of any state;
(5) “Crew leader” means an individual who:
   (A) Furnishes individuals to perform service in agricultural labor for any other person;
   (B) Pays, either on the individual’s own behalf or on behalf of the other person, for the service in agricultural labor performed by them; and
   (C) Has not entered into a written agreement with the other person under which the individual is designated as an employee of the other person;

(6) “Hospital” means an institution that has been licensed, certified or approved by the hospital licensing board of the department of health as a hospital; and

(7) “Institution of higher education” means:
   (A) Any college or university in this state; or
   (B) An educational institution that meets all of the following conditions:
      (i) It admits as regular students only individuals having a certificate of graduation from high school, or the recognized equivalent of such a certificate;
      (ii) It is legally authorized in this state to provide a program of education beyond high school;
      (iii) It provides an educational program for which it awards a bachelor’s or higher degree, or provides a program that is acceptable for full credit toward such a degree, a program of post-graduate or post-doctoral studies, or a program of training to prepare students for gainful employment in a recognized occupation; and
      (iv) It is a public or other nonprofit institution.

(g) Chapter Definition. Unless the context otherwise requires, “farm” includes stock, dairy, poultry, fruit, fur-bearing animals, and truck farms, plantations, ranches, nurseries, ranges, greenhouses or other similar structures used primarily for the raising of agricultural or horticultural commodities, and orchards.

50-7-207. “Employment” and related definitions. [Effective on January 1, 2020. See the version effective until January 1, 2020.]

(a) Definition of “Employment.” For purposes of this chapter and subject to the special rules contained in subsection (e), and the definitions contained in subsection (f), “employment” means service that meets all of the following conditions:
   (1) It is within any category of “included service” as listed in subsection (b);
   (2) It is not within any category of “excluded service” as listed in subsection (c); and
   (3) It is within any category of “Tennessee service” as listed in subsection (d).

(b) Included Service.” For purposes of this section, “included service” means any of the following:
   (1) Service performed prior to January 1, 1978, that was employment as defined in this section prior to January 1, 1978;
   (2) Subject to the other provisions of this section, service performed after December 31, 1977, including service in interstate commerce, by:
      (A) Any officer of a corporation;
      (B) Any individual who performs services for an employer for wages if the services are performed by the individual qualify as an employer-
employee relationship with the employer based upon consideration of the following twenty (20) factors as described in the twenty-factor test of Internal Revenue Service Revenue Ruling 87-41, 1987-1 C.B. 296:

(i) **Instructions.** A worker who is required to comply with other persons’ instructions about when, where, and how the worker is to work is ordinarily an employee. This control factor is present if the person or persons for whom the services are performed have the right to require compliance with instructions;

(ii) **Training.** Training a worker by requiring an experienced employee to work with the worker, by corresponding with the worker, by requiring the worker to attend meetings, or by using other methods indicates that the person or persons for whom the services are performed want the services performed in a particular method or manner;

(iii) **Integration.** Integration of the worker’s services into the business operations generally shows that the worker is subject to direction and control. When the success or continuation of a business depends to an appreciable degree upon the performance of certain services, the workers who perform those services must necessarily be subject to a certain amount of control by the owner of the business;

(iv) **Services rendered personally.** If the services must be rendered personally, then presumably the persons for whom the services are performed are interested in the methods used to accomplish the work as well as in the results;

(v) **Hiring, supervising, and paying assistants.** If the person or persons for whom the services are performed hire, supervise, and pay assistants, then that factor generally shows control over the workers on the job. However, if one (1) worker hires, supervises, and pays the other assistants pursuant to a contract under which the worker agrees to provide materials and labor and under which the worker is responsible only for the attainment of a result, then this factor indicates an independent contractor status;

(vi) **Continuing relationship.** A continuing relationship between the worker and the person or persons for whom the services are performed indicates that an employer-employee relationship exists. A continuing relationship may exist where work is performed at frequently recurring although irregular intervals;

(vii) **Set hours of work.** The establishment of set hours of work by the person or persons for whom the services are performed is a factor indicating control;

(viii) **Full time required.** If the worker must devote substantially full time to the business of the person or persons for whom the services are performed, then the person or persons have control over the amount of time the worker spends working and impliedly restrict the worker from doing other gainful work. An independent contractor is free to work when and for whom the independent contractor chooses;

(ix) **Doing work on employer’s premises.** If the work is performed on the premises of the person or persons for whom the services are performed, then that factor suggests control over the worker; especially if the work could be done elsewhere. Work done off the premises of the person or persons receiving the services, such as at the office of the worker, indicates some freedom from control. However, this fact by itself does not
mean that the worker is not an employee. The importance of this factor depends on the nature of the service involved and the extent to which an employer generally would require that employees perform those services on the employer’s premises. Control over the place of work is indicated when the person or persons for whom the services are performed have the right to compel the worker to travel a designated route, to canvass territory within a certain time, or to work at specific places as required;

(x) **Order or sequence set.** If a worker must perform services in the order or sequence set by the person or persons for whom the services are performed, then that factor shows that the worker is not free to follow the worker’s own pattern of work but instead must follow the established routines and schedules of the person or persons for whom the services are performed. Often, because of the nature of an occupation, the person or persons for whom the services are performed do not set the order of the services or set the order infrequently. It is sufficient to show control, however, if the person or persons retain the right to do so;

(xi) **Oral or written reports.** A requirement that the worker submit regular or written reports to the person or persons for whom the services are performed indicates a degree of control;

(xii) **Payment by hour, week, month.** Payment by the hour, week, or month generally points to an employer-employee relationship; provided, that this method of payment is not just a convenient way of paying a lump sum agreed upon as the cost of a job. Payment made by the job or on straight commission generally indicates the worker is an independent contractor;

(xiii) **Payment of business or traveling expenses.** If the person or persons for whom the services are performed ordinarily pay the worker’s business or traveling expenses, then the worker is ordinarily an employee. An employer, to be able to control expenses, generally retains the right to regulate and direct the worker’s business activities;

(xiv) **Furnishing of tools and materials.** The fact that the person or persons for whom the services are performed furnish significant tools, materials, and other equipment tends to show the existence of an employer-employee relationship;

(xv) **Significant investment.** If the worker invests in facilities that are used by the worker in performing services and are not typically maintained by employees, such as the maintenance of an office rented at fair value from an unrelated party, then that factor tends to indicate that the worker is an independent contractor. However, lack of investment in facilities indicates dependence on the person or persons for whom the services are performed for the facilities and the existence of an employer-employee relationship;

(xvi) **Realization of profit or loss.** A worker who can realize a profit or suffer a loss as a result of the worker’s services, in addition to the profit or loss ordinarily realized by employees, is generally an independent contractor but the worker who cannot is an employee. For example, if the worker is subject to a real risk of economic loss due to significant investments or a bona fide liability for expenses, such as salary payments to unrelated employees, then that factor indicates that the worker is an independent contractor. The risk that a worker will not receive payment for the worker’s services is common to both independent contractors and employees and does not constitute sufficient economic risk to support
treatment as an independent contractor;

(xvii) **Working for more than one firm at a time.** If a worker performs more than de minimis services for multiple unrelated persons or firms at the same time, then that factor generally indicates that the worker is an independent contractor. However, a worker who performs services for more than one (1) person may be an employee of each of the persons, especially where such persons are part of the same service arrangement;

(xviii) **Making service available to general public.** The fact that a worker makes the worker’s services available to the general public on a regular and consistent basis indicates an independent contractor relationship;

(xix) **Right to discharge.** The right to discharge a worker is a factor indicating that the worker is an employee and the person possessing the right is an employer. An employer exercises control through the threat of dismissal, which causes the worker to obey the employer’s instructions. An independent contractor cannot be fired so long as the independent contractor produces a result that meets the contract specifications; and

(xx) **Right to terminate.** If the worker has the right to end the worker’s relationship with the person for whom the services are performed at any time the worker wishes without incurring liability, then that factor indicates an employer-employee relationship;

(C) Any individual other than an individual described in subdivision (b)(2)(A) or (b)(2)(B) who performs services for remuneration for any person:

(i) In either of the following capacities:

(a) As an agent driver or commission driver engaged in distributing meat products, vegetable products, fruit products, bakery products, beverages other than milk, or laundry or dry-cleaning service, for the driver’s principal; or

(b) As a traveling or city salesperson, other than as an agent driver or commission driver, engaged on a full-time basis in the solicitation on behalf of, and the transmission to, the salesperson’s principal, except for side-line sales activities on behalf of some other person, of orders from wholesalers, retailers, contractors, or operators of hotels, restaurants, or other similar establishments for merchandise for resale or supplies for use in their business operations; and

(ii) In the presence of all of the following conditions:

(a) The contract of service contemplates that substantially all of the services are to be performed personally by the individual;

(b) The individual does not have a substantial investment in facilities used in connection with the performance of services other than in facilities for transportation; and

(c) The services are not in the nature of a single transaction that is not part of a continuing relationship with the person for whom the services are performed;

(3) Except as provided in subdivision (c)(5), service performed by an individual:

(A) After December 31, 1971 and prior to January 1, 1978, in the employ of this state or any of its instrumentalities, or in the employ of this state and one (1) or more other states or their instrumentalities, for a hospital or
institution of higher education located in this state; provided, that the
service is excluded from “employment” as defined in the federal Unemploy-
ment Tax Act, 26 U.S.C. § 3306(c)(7), and does not constitute “excluded employment” under subdivision (c)(5); and

(B) After December 31, 1977, in the employ of this state or any of its
instrumentalities or any political subdivision of the state or any of its
instrumentalities or any instrumentality of more than one (1) of the
foregoing or any instrumentality of any of the foregoing and one (1) or more
other states or political subdivisions; provided, that the service is excluded
from “employment” as defined in the federal Unemployment Tax Act, 26
U.S.C. § 3306(c)(7), and does not constitute “excluded employment” under
subdivision (c)(5);

(4) Except as provided in subdivision (c)(5), service performed by an
individual after December 31, 1977, in the employ of a religious, charitable,
educational or other organization, but only if both of the following conditions
are met:

(A) The service is excluded from “employment” as defined in the federal
Unemployment Tax Act, 26 U.S.C. § 3306(c)(8); and

(B) The organization had four (4) or more individuals in employment for
some portion of a day in each of twenty (20) different weeks, whether or not
the weeks were consecutive, within either the current or preceding calendar
year, regardless of whether they were employed at the same point in time;

(5) Service performed after December 31, 1971, by an officer or crew
member of an American vessel or American aircraft or in connection with the
American vessel or American aircraft; provided, that it meets the conditions
of subdivision (d)(5);

(6) Notwithstanding subsection (c), service with respect to which a tax is
required to be paid under any federal law imposing a tax against which
credit may be taken for contributions required to be paid into a state
unemployment fund or that as a condition for full credit against the tax
imposed by the federal Unemployment Tax Act, compiled in 26 U.S.C. § 3301
et seq., is required to be covered by this chapter;

(7) Service performed after December 31, 1977, by an individual in
agricultural labor as defined in subdivision (f)(1); provided, that:

(A) The service is performed for a person who either:

(i) During any calendar quarter in either the current or preceding
calendar year paid remuneration in cash of twenty thousand dollars
($20,000) or more to individuals employed in agricultural labor, not
taking into account service in agricultural labor performed before
January 1, 1980, by an alien referred to in subdivision (b)(7)(B); or

(ii) For some portion of a day in each of twenty (20) different calendar
weeks, whether or not the weeks were consecutive, in either the current or
the preceding calendar year, employed in agricultural labor ten (10) or
more individuals, regardless of whether they were employed at the same
point in time, not taking into account service in agricultural labor
performed before January 1, 1980, by an alien referred to in subdivision
(b)(7)(B);

(B) For purposes of this section, any individual who is a crew member
furnished by a crew leader to perform service in agricultural labor for any
other person shall be treated as an employee of the crew leader, if both of the
following conditions are met:
(i) Substantially all the members of the crew operate or maintain tractors, mechanized harvesting or cropdusting equipment or any other mechanized equipment, that is provided by the crew leader; and

(ii) The individual is not an employee of the other person within the meaning of subdivision (a)(2);

(C) For the purposes of this subdivision (b)(7), in the case of any individual who is furnished by a crew leader to perform service in agricultural labor for any other person and who is not treated as an employee of the crew leader under subdivision (b)(7)(B), the following shall apply:

(i) The other person and not the crew leader shall be treated as the employer of the individual; and

(ii) The other person shall be treated as having paid cash remuneration to the individual in any amount equal to the amount of cash remuneration paid to the individual by the crew leader, either on the person’s own behalf or on behalf of the other person, for the service in agricultural labor performed for the other person;

(8) Domestic service performed after December 31, 1977, in a private home, local college club, or local chapter of a college fraternity or college sorority and performed for a person who paid cash remuneration of one thousand dollars ($1,000) or more after December 31, 1977, in any calendar quarter, to an individual or individuals employed in the domestic service in the current calendar year or the preceding calendar year;

(9) During the effective period of the election, service covered by an election pursuant to § 50-7-405 and service covered by an election duly approved by the administrator in accordance with an arrangement pursuant to § 50-7-405; or

(10) The entire service of an individual in the case of service that is not covered under this section and performed entirely without this state, with respect to no part of which contributions are required and paid under any unemployment compensation law of any other state or of the federal government; provided, that the individual performing the services is a resident of this state and the administrator approves the election of the employing unit for which the services are performed.

(c) “Excluded Service.” For purposes of this section, “excluded service” means any of the following, unless the employing unit for which the service is performed is liable for a federal tax on the remuneration paid for the service against which credit may be taken for premiums paid under this chapter, or unless the employing unit has elected that the service shall be deemed to constitute employment subject to this chapter pursuant to § 50-7-405, in which cases the service shall be “included service” as provided in subsection (b):

(1) Service performed in the employ of any other state or its political subdivisions, or of the United States government, or of an instrumentality of any other state or states or their political subdivisions or of the United States, except that after 1961, to the extent that the congress of the United States permits states to require any instrumentalities of the United States to make payments into an unemployment fund under a state employment security law, this chapter shall apply to those instrumentalities, and to service performed for the instrumentalities, in the same manner, to the same extent, and on the same terms as to all other employers, employing units, individuals, and service; provided, that, if this state is not certified for any year by the secretary
of labor under the federal Unemployment Tax Act, 26 U.S.C. § 3304(c), the payments required of the instrumentalities with respect of that year shall be refunded by the commissioner for the fund in the same manner and within the same period as is provided in § 50-7-404(f) with respect to premiums erroneously collected;

(2) Service performed after June 30, 1939, with respect to which unemployment compensation is payable under the Railroad Unemployment Insurance Act of Congress, 52 Stat. 1094, compiled in 45 U.S.C. § 351 et seq., and services with respect to which unemployment benefits are payable under an unemployment compensation system for maritime employees established by an act of congress; provided, that the commissioner is authorized and directed to enter into agreements with the proper agencies under the act of congress, which agreements shall become effective in the manner provided in § 50-7-603, to provide reciprocal treatment to individuals who have, after acquiring potential rights to benefits under this chapter, acquired rights for unemployment compensation under the act of congress, or who have, after acquiring potential rights to unemployment compensation under the act of congress, acquired rights to benefits under this chapter;

(3) Except as provided in subsection (b), service performed by an individual in agricultural labor as defined in subdivision (f)(1);

(4) Service performed by an individual in the employ of the individual's son, daughter or spouse, and service performed by a child under eighteen (18) years of age in the employ of the child's father or mother;

(5) Notwithstanding subdivisions (b)(3) and (4), services performed:
   (A) In the employ of a church, convention or association of churches;
   (B) In the employ of an organization that is operated primarily for religious purposes and that is operated, supervised, controlled or principally supported by a church, convention or association of churches;
   (C) By a duly ordained, commissioned or licensed minister of a church in the exercise of the minister's ministry or by a member of a religious order in the exercise of duties required by the religious order;
   (D) After December 31, 1977, in the employ of a governmental entity referred to in subdivision (b)(3) if the service is performed by an individual in the exercise of duties:
      (i) As an elected official;
      (ii) As a member of a legislative body, or a member of the judiciary, of a state or political subdivision;
      (iii) As a member of the state national guard or air national guard;
      (iv) As an employee serving on a temporary basis in the case of fire, storm, snow, earthquake, flood or similar emergency; or
      (v) In a position that, under or pursuant to the laws of this state, is designated as either:
         (a) A major nontenured policymaker or advisory position; or
         (b) A policymaking or advisory position the performance of the duties of which ordinarily does not require more than eight (8) hours per week;
   (E) In a facility conducted for the purpose of carrying out a program of rehabilitation for individuals whose earning capacity is impaired by age or physical or mental deficiency or injury, or providing remunerative work for individuals who, because of their impaired physical or mental capacity, cannot be readily absorbed in the competitive labor market, by an indi-
vidual receiving the rehabilitation or remunerative work;

(F) After December 31, 1977, in a custodial or penal institution by an inmate of the institution and, after June 30, 1999, by an inmate committed to a custodial or penal institution for any employer; or

(G) As part of an unemployment work-relief or work-training program assisted or financed in whole or in part by any federal agency or an agency of a state or political subdivision of a state, by an individual receiving the work-relief or work-training, unless otherwise required by the agency or by law governing the agency assisting or financing in whole or in part the unemployment work-relief or work-training program as a condition to the assistance or financing;

(6) Except to the extent set forth in subdivisions (b)(4) and (6), service performed in the employ of the corporation, community chest, fund or foundation, organized and operated exclusively for religious, charitable, scientific, literary or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual;

(7) Service performed by an individual for an employer as an insurance agent or as an insurance solicitor, if all the service performed by the individual for the employer is performed for remuneration solely by way of commission;

(8) Service performed in the employ of a school, college or university, if the service is performed:

(A) By a student who is enrolled and is regularly attending classes at the school, college or university; or

(B) By the spouse of the student, if the spouse is advised, at the time the spouse commences to perform the service, both that:

(i) The employment of the spouse to perform the service is provided under a program to provide financial assistance to the student by the school, college or university; and

(ii) The employment will not be covered by any program of unemployment insurance;

(9) Service performed by an individual who is enrolled at a nonprofit or public educational institution that normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on, as a student in a full-time program, that is taken for credit and that combines academic instruction with work experience, if the service is an integral part of the program, and the institution has so certified to the employer, except that this subdivision (c)(9) does not apply to service performed in a program established for or on behalf of an employer or group of employers;

(10) Service performed in the employ of a hospital, if the service is performed by a patient of the hospital, as defined in subdivision (f)(7);

(11) Service performed by a qualified real estate agent if:

(A) The individual is a licensed real estate agent;

(B) Substantially all of the remuneration for the services performed as a real estate agent is directly related to sales or other output, including the performance of services, rather than the number of hours worked; and

(C) The services performed by the individual are performed pursuant to a written contract between the individual and the person for whom the services are performed, and the contract provides that the individual will not be treated as an employee with respect to the services for federal tax
(12) Service performed by a direct seller, including an individual engaged in the trade or business of the delivery or distribution of newspapers or shopping news, if:

(A) The individual is engaged in the trade or business of selling or soliciting the sale of consumer products to any buyer on a:

(i) Buy-sell basis;

(ii) Deposit-commission basis; or

(iii) Any similar basis that the United States secretary of treasury prescribes by regulations, for resale by the buyer or any other individual, in the home or otherwise than in a permanent retail establishment; or

(B) The individual is engaged in the trade or business of selling or soliciting the sale of consumer products to a consumer in the home or somewhere other than in a permanent retail establishment; and

(i) Substantially all of the remuneration for the services performed as a direct seller is directly related to sales or output, including the performance of services, rather than to the number of hours worked; and

(ii) The services performed by the individual are performed pursuant to a written contract between the individual and the person for whom the services are performed, and the contract provides that the individual will not be treated as an employee with respect to the services for federal tax (FUTA) purposes;

(13) Service performed by a full-time student in the employ of an organized camp, if:

(A) The camp did not operate for more than seven (7) months in the calendar year and did not operate for more than seven (7) months in the preceding calendar year, or had average gross receipts for any six (6) months in the preceding calendar year that were not more than thirty-three one third percent (33 1/3%) of its average gross receipts for the other six (6) months in the preceding calendar year;

(B) The full-time student performed services in the employ of the camp for less than thirteen (13) calendar weeks in the calendar year; and

(C) For purposes of this subdivision (c)(13), an individual shall be treated as a full-time student for any period during which the individual is enrolled as a full-time student at an educational institution, or that is between academic years or terms if the individual was enrolled as a full-time student at an educational institution for the immediately preceding academic year or term, and there is reasonable assurance that the individual will be so enrolled for the immediately succeeding academic year or term;

(14) Service performed by an individual on a boat, or boats in the case of a fishing operation involving more than one (1) boat, engaged in catching fish or other forms of aquatic animal life under an arrangement with the owner or operator of the boat pursuant to which:

(A) The individual does not receive any cash remuneration, other than as provided in subdivision (c)(14)(B);

(B) The individual receives a share of the boat’s or boats’ catch of fish or other forms of aquatic animal life or a share of the proceeds from the sale of the catch;

(C) The amount of the individual’s share depends on the amount of the boat’s or boats’ catch of fish or other forms of aquatic animal life, but only
if the operating crew of the boat, or each boat from which the individual receives a share in the case of a fishing operation involving more than one (1) boat, is normally made up of fewer than ten (10) individuals;

(15) Service performed by an individual as a product demonstrator pursuant to a written contract between the individual and a person whose principal business is providing demonstrators to third parties for those purposes, and the contract provides that the individual will not be treated as an employee with respect to the services;

(16) The service performed on or after January 1, 1995, by an individual who is an alien admitted to the United States to perform service in agricultural labor pursuant to §§ 101(a)(15)(H) and 214(c) of the Immigration and Nationality Act, codified in 8 U.S.C. §§ 1101(a)(15)(H) and 1184, respectively;

(17) After June 30, 1999, service performed by an election official or an election worker, if the amount of remuneration received by the individual during the calendar year for services as an election official or election worker is less than one thousand dollars ($1,000); and

(18)(A) Notwithstanding any provision of this chapter or any other law to the contrary, companion-sitters who receive referrals under registry or referral arrangements substantially similar to those addressed within the IRS determination shall not be classified as employees of the person, corporation or business entity pursuant to this chapter, unless the person, corporation or business entity and the department mutually agree to the reclassification of the companion sitters as employees of the person, corporation or business entity in order to absolve the elderly, sick or disabled clients or the parents of the children from liability for payment of any premiums, fees or other costs that may be imposed pursuant to the Tennessee Employment Security Law, if:

(i) A person, corporation or business entity maintains an employment registry or referral service exclusively for companion sitters seeking employment opportunities for providing personal attendant, companionship, household care, ancillary health care or related services to children, the elderly, or sick or disabled clients;

(ii) The companion sitters do not provide personal attendant, companionship, household care, ancillary health care or related services for hire to nonprofit organizations, Indian tribes or state or local governments; and

(iii) Pursuant to the federal Insurance Contributions Act, the federal Unemployment Tax Act, or the collection of income tax at source on wages, chapters 21, 23 and 24, respectively, Subtitle C, Internal Revenue Code, compiled in 26 U.S.C. § 3101 et seq., 26 U.S.C. § 3301 et seq., and 26 U.S.C. § 3401 et seq., respectively, the Internal Revenue Service issues a determination that a companion-sitter is not an employee of the person, corporation or business entity under the typical registry or referral arrangements of the person, corporation or business entity;

(B) Subdivision (c)(18)(A) shall not be construed to require forgiveness or refund of any premiums, fees or other related costs duly imposed prior to July 1, 2004.

(d) “Tennessee Service.” For purposes of this section, “Tennessee service” means any of the following:

(1) Any individual’s entire service, performed within or both within and without this state, if the service is localized in this state. Service shall be
deemed to be localized within a state if either:
   (A) The service is performed entirely within the state; or
   (B) The service is performed both within and without the state but the
       service performed without the state is incidental to the individual’s service
       within the state; for example, is temporary or transitory in nature or
       consists of isolated transactions;

(2) An individual’s entire service, performed within and without this state,
if the service is not localized in any state but some of the service is performed
in this state and:
   (A) The individual’s base of operations is in this state; or
   (B) If there is no base of operations, then the place from which the service
       is directed or controlled is in this state; or
   (C) The individual’s base of operations or 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;

(3) Service wherever performed within the United States, or Canada, if
both:
   (A) The service is not covered under the unemployment compensation
       law of any other state or Canada; and
   (B) The place from which the service is directed or controlled is in this
       state;

(4) Service that is performed after December 31, 1971, except service
performed in Canada, by an individual who is a citizen of the United States
and who is in the employ of an American employer, other than service that is
deemed to be “Tennessee employment” under subdivisions (d)(1) and (2) or to
be “employment” under the parallel provisions of another state’s law, if:
   (A) The employer’s principal place of business in the United States is
       located in this state; or
   (B) The employer has no place of business in the United States, but:
       (i) The employer is an individual who is a resident of this state;
       (ii) The employer is a corporation that is organized under the laws of
           this state; or
       (iii) The employer is a partnership or a trust and the number of the
           partners or trustees who are residents of this state is greater than the
           number who are residents of any other state; or
   (C) None of the criteria of subdivisions (d)(4)(A) and (B) are met, but the
       employer has elected coverage in this state or, the employer having failed to
       elect coverage in any state, the individual has filed a claim for benefits,
       based on the service under the laws of this state;

(5) Specifically in the case of included service described in subdivision
(b)(5), service where the operating office from which the operations of the
American vessel, operating on navigable waters within the United States, or
the operations of the American aircraft within the United States, or the
operations of both the vessel and the aircraft within and without the United
States are ordinarily and regularly supervised, managed, directed and
controlled is within this state; or

(6) Specifically in the case of included service described in subdivision
(b)(10), service when the individual performing the service is a resident of this
state.

(e) **Special Rules.** The following rules shall govern for purposes of this
section:
(1) Services performed by an individual who provides services as a
leased-operator or an owner-operator of a motor vehicle or vehicles under
contract to a common carrier conducting an interstate business while
engaged in interstate commerce are deemed to be an excluded service for the
purposes of this section, regardless of whether the common law relationship
of master and servant exists. However, this subdivision (e)(1) does not apply
to services performed under subdivision (b)(3) or (b)(4); and
(2) It is the legislative intent that no elected official is eligible for benefits
based upon service as an elected official.

(f) Section Definitions. The following words and terms have the following
respective meanings for the purposes of this section, unless the context otherwise
requires:

(1) “Agricultural labor” means remunerated service performed after De-
cember 31, 1971:
(A) On a farm, in the employ of any person, in connection with cultivat-
ing the soil, or in connection with the raising or harvesting of any
agricultural or horticultural commodity, including the raising, shearing,
feeding, caring for, training, and management of livestock, bees, poultry,
and fur-bearing animals and wildlife;
(B) In the employ of the owner or tenant or other operator of a farm, in
connection with the operation, management, conservation, improvement or
maintenance of the farm and its tools and equipment, or in salvaging
timber or clearing land of brush and other debris left by a hurricane, if the
major part of the service is performed on a farm;
(C) In connection with the production or harvesting of any commodity
defined as an agricultural commodity in § 15(g) of the Agricultural
Marketing Act, codified in 12 U.S.C. § 1141j, or in connection with the
ginning of cotton, or in connection with the operation or maintenance of
ditches, canals, reservoirs or waterways, not owned or operated for profit,
and used exclusively for supplying and storing water for farming purposes;
(D) In the employ of either:
(i) The operator of a farm in handling, planting, drying, packing,
packaging, processing, freezing, grading, storing or delivering to storage
or to market or to a carrier for transportation to market, in its unmanu-
factured state, any agricultural or horticultural commodity, but only if
the operator produced more than one half (½) of the commodity with
respect to which the service is performed; or
(ii) In the employ of a group of operators of farms, or a cooperative
organization of which the operators are members, in the performance of
service described in subdivision (f)(1)(D)(i), but only if the operators
produced more than one half (½) of the commodity with respect to which
the service is performed; provided, that this subdivision (f)(1)(D) shall
not be deemed to include service performed in connection with com-
mercial canning or commercial freezing or in connection with any agricul-
tural or horticultural commodity after its delivery to a terminal market
for distribution for consumption; or
(E) On a farm operated for profit if the service is not in the course of the
employer’s trade or business or is not domestic service in a private home of
the employer;
(2) “American aircraft” means an aircraft registered under the laws of the
United States;
(3) “American employer” means a person who is:
(A) An individual who is a resident of the United States;
(B) A partnership, if two thirds (2/3) or more of the partners are residents of the United States;
(C) A trust, if all of the trustees are residents of the United States; or
(D) A corporation organized under the laws of the United States or of any state;

(4) “American vessel” means any vessel documented or numbered under the laws of the United States; and includes any vessel that is neither documented nor numbered under the laws of the United States nor documented under the laws of any foreign country, if its crew performs service solely for one (1) or more citizens or residents of the United States or corporations organized under the laws of the United States or of any state;

(5) “Crew leader” means an individual who:
(A) Furnishes individuals to perform service in agricultural labor for any other person;
(B) Pays, either on the individual's own behalf or on behalf of the other person, for the service in agricultural labor performed by them; and

(C) Has not entered into a written agreement with the other person under which the individual is designated as an employee of the other person;

(6) “Hospital” means an institution that has been licensed, certified or approved by the hospital licensing board of the department of health as a hospital; and

(7) “Institution of higher education” means:
(A) Any college or university in this state; or
(B) An educational institution that meets all of the following conditions:
   (i) It admits as regular students only individuals having a certificate of graduation from high school, or the recognized equivalent of such a certificate;
   (ii) It is legally authorized in this state to provide a program of education beyond high school;
   (iii) It provides an educational program for which it awards a bachelor's or higher degree, or provides a program that is acceptable for full credit toward such a degree, a program of post-graduate or post-doctoral studies, or a program of training to prepare students for gainful employment in a recognized occupation; and
   (iv) It is a public or other nonprofit institution.

(g) Chapter Definition. Unless the context otherwise requires, “farm” includes stock, dairy, poultry, fruit, fur-bearing animals, and truck farms, plantations, ranches, nurseries, ranges, greenhouses or other similar structures used primarily for the raising of agricultural or horticultural commodities, and orchards.

50-9-103. Chapter definitions. [Effective on January 1, 2020. See the version effective until January 1, 2020.]

As used in this chapter, unless the context otherwise requires:
(1) “Alcohol” has the same meaning in this chapter when used in the federal regulations describing the procedures used for testing of alcohol by programs operating pursuant to the authority of the United States department of transportation, currently compiled at 49 CFR part 40. It is intended that the definition shall change as the department of transportation's
regulations are revised;

(2) “Alcohol test” means an analysis of breath, or blood, or any other analysis that determines the presence and level or absence of alcohol as authorized by the United States department of transportation in its rules and guidelines concerning alcohol testing and drug testing;

(3) “Chain of custody” refers to the methodology of tracking specified materials or substances for the purpose of maintaining control and accountability from initial collection to final disposition for all such materials or substances, and providing for accountability at each stage in handling, testing and storing specimens and reporting test results;

(4) “Confirmation test,” “confirmed test” or “confirmed drug or alcohol test” means a second analytical procedure used to identify the presence of a specific drug or alcohol or metabolite in a specimen, which test must be different in scientific principle from that of the initial test procedure and must be capable of providing requisite specificity, sensitivity and quantitative accuracy;

(5) “Covered employer” means a person or entity that employs a person, is covered by the Workers’ Compensation Law, compiled in chapter 6 of this title, maintains a drug-free workplace pursuant to this chapter and includes on the posting required by § 50-9-105 a specific statement that the policy is being implemented pursuant to this chapter. This chapter shall have no effect on employers who do not meet this definition;

(6) “Drug” means any controlled substance subject to testing pursuant to drug testing regulations adopted by the United States department of transportation. A covered employer shall test an individual for all such drugs in accordance with this chapter. The commissioner of labor and workforce development may add additional drugs by rule in accordance with § 50-9-111;

(7) “Drug or alcohol rehabilitation program” means a service provider that provides confidential, timely and expert identification, assessment and resolution of employee drug or alcohol abuse;

(8) “Drug test” or “test” means any chemical, biological or physical instrumental analysis administered by a laboratory authorized to do so pursuant to this chapter, for the purpose of determining the presence or absence of a drug or its metabolites pursuant to regulations governing drug testing adopted by the United States department of transportation or other recognized authority approved by rule by the commissioner of labor and workforce development;

(9) “Employee” means any individual who performs services for a covered employer for wages if the services performed by the individual qualify as an employer-employee relationship with the employer based upon consideration of the following twenty (20) factors as described in the twenty-factor test of Internal Revenue Service Revenue Ruling 87-41, 1987-1 C.B. 296:

(A) Instructions. A worker who is required to comply with other persons’ instructions about when, where, and how the worker is to work is ordinarily an employee. This control factor is present if the person or persons for whom the services are performed have the right to require compliance with instructions;

(B) Training. Training a worker by requiring an experienced employee to work with the worker, by corresponding with the worker, by requiring the worker to attend meetings, or by using other methods indicates that the person or persons for whom the services are performed want the services performed in a particular method or manner;
(C) Integration. Integration of the worker’s services into the business operations generally shows that the worker is subject to direction and control. When the success or continuation of a business depends to an appreciable degree upon the performance of certain services, the workers who perform those services must necessarily be subject to a certain amount of control by the owner of the business;

(D) Services rendered personally. If the services must be rendered personally, then presumably the persons for whom the services are performed are interested in the methods used to accomplish the work as well as in the results;

(E) Hiring, supervising, and paying assistants. If the person or persons for whom the services are performed hire, supervise, and pay assistants, then that factor generally shows control over the workers on the job. However, if one (1) worker hires, supervises, and pays the other assistants pursuant to a contract under which the worker agrees to provide materials and labor and under which the worker is responsible only for the attainment of a result, then this factor indicates an independent contractor status;

(F) Continuing relationship. A continuing relationship between the worker and the person or persons for whom the services are performed indicates that an employer-employee relationship exists. A continuing relationship may exist where work is performed at frequently recurring although irregular intervals;

(G) Set hours of work. The establishment of set hours of work by the person or persons for whom the services are performed is a factor indicating control;

(H) Full time required. If the worker must devote substantially full time to the business of the person or persons for whom the services are performed, then the person or persons have control over the amount of time the worker spends working and impliedly restrict the worker from doing other gainful work. An independent contractor is free to work when and for whom the independent contractor chooses;

(I) Doing work on employer’s premises. If the work is performed on the premises of the person or persons for whom the services are performed, then that factor suggests control over the worker, especially if the work could be done elsewhere. Work done off the premises of the person or persons receiving the services, such as at the office of the worker, indicates some freedom from control. However, this fact by itself does not mean that the worker is not an employee. The importance of this factor depends on the nature of the service involved and the extent to which an employer generally would require that employees perform those services on the employer’s premises. Control over the place of work is indicated when the person or persons for whom the services are performed have the right to compel the worker to travel a designated route, to canvass territory within a certain time, or to work at specific places as required;

(J) Order or sequence set. If a worker must perform services in the order or sequence set by the person or persons for whom the services are performed, then that factor shows that the worker is not free to follow the worker’s own pattern of work but instead must follow the established routines and schedules of the person or persons for whom the services are performed. Often, because of the nature of an occupation, the person or
persons for whom the services are performed do not set the order of the services or set the order infrequently. It is sufficient to show control, however, if the person or persons retain the right to do so;

(K) **Oral or written reports.** A requirement that the worker submit regular or written reports to the person or persons for whom the services are performed indicates a degree of control;

(L) **Payment by hour, week, month.** Payment by the hour, week, or month generally points to an employer-employee relationship; provided, that this method of payment is not just a convenient way of paying a lump sum agreed upon as the cost of a job. Payment made by the job or on straight commission generally indicates the worker is an independent contractor;

(M) **Payment of business or traveling expenses.** If the person or persons for whom the services are performed ordinarily pay the worker’s business or traveling expenses, then the worker is ordinarily an employee. An employer, to be able to control expenses, generally retains the right to regulate and direct the worker’s business activities;

(N) **Furnishing of tools and materials.** The fact that the person or persons for whom the services are performed furnish significant tools, materials, and other equipment tends to show the existence of an employer-employee relationship;

(O) **Significant investment.** If the worker invests in facilities that are used by the worker in performing services and are not typically maintained by employees, such as the maintenance of an office rented at fair value from an unrelated party, then that factor tends to indicate that the worker is an independent contractor. However, lack of investment in facilities indicates dependence on the person or persons for whom the services are performed for the facilities and the existence of an employer-employee relationship;

(P) **Realization of profit or loss.** A worker who can realize a profit or suffer a loss as a result of the worker’s services, in addition to the profit or loss ordinarily realized by employees, is generally an independent contractor but the worker who cannot is an employee. For example, if the worker is subject to a real risk of economic loss due to significant investments or a bona fide liability for expenses, such as salary payments to unrelated employees, then that factor indicates that the worker is an independent contractor. The risk that a worker will not receive payment for the worker’s services is common to both independent contractors and employees and does not constitute sufficient economic risk to support treatment as an independent contractor;

(Q) **Working for more than one firm at a time.** If a worker performs more than de minimis services for multiple unrelated persons or firms at the same time, then that factor generally indicates that the worker is an independent contractor. However, a worker who performs services for more than one (1) person may be an employee of each of the persons, especially where such persons are part of the same service arrangement;

(R) **Making service available to general public.** The fact that a worker makes the worker’s services available to the general public on a regular and consistent basis indicates an independent contractor relationship;

(S) **Right to discharge.** The right to discharge a worker is a factor indicating that the worker is an employee and the person possessing the
right is an employer. An employer exercises control through the threat of dismissal, which causes the worker to obey the employer's instructions. An independent contractor cannot be fired so long as the independent contractor produces a result that meets the contract specifications; and

(T) Right to terminate. If the worker has the right to end the worker's relationship with the person for whom the services are performed at any time the worker wishes without incurring liability, then that factor indicates an employer-employee relationship;

(10) "Employee assistance program" means an established program capable of providing expert assessment of employee personal concerns; confidential and timely identification services with regard to employee drug or alcohol abuse; referrals of employees for appropriate diagnosis, treatment and assistance; and follow-up services for employees who participate in the program or require monitoring after returning to work. If, in addition to those activities, an employee assistance program provides diagnostic and treatment services, these services shall in all cases be provided by the program;

(11) "Employer" means a person or entity that employs a person and that is covered by the Workers' Compensation Law, compiled in chapter 6 of this title;

(12) "Initial drug or alcohol test" means a procedure that qualifies as a "screening test" or "initial test" pursuant to regulations governing drug or alcohol testing adopted by the United States department of transportation or other recognized authority approved by rule by the administrator of the bureau of workers' compensation;

(13) "Job applicant" means a person who has applied for a position with a covered employer and who has been offered employment conditioned upon successfully passing a drug or alcohol test, and may have begun work pending the results of the drug or alcohol test;

(14) "Medical review officer" or "MRO" means a licensed physician, employed with or contracted with a covered employer, who has knowledge of substance abuse disorders, laboratory testing procedures and chain of custody collection procedures; who verifies positive, confirmed test results; and who has the necessary medical training to interpret and evaluate an employee's positive test result in relation to the employee's medical history or any other relevant biomedical information;

(15) "Reasonable-suspicion drug testing" means drug or alcohol testing based on a belief that an employee is using or has used drugs or alcohol in violation of the covered employer's policy drawn from specific objective and articulable facts and reasonable inferences drawn from those facts in light of experience. Among other things, the facts and inferences may be based upon:

(A) Observable phenomena while at work, such as direct observation of drug or alcohol use or of the physical symptoms or manifestations of being under the influence of a drug or alcohol;

(B) Abnormal conduct or erratic behavior while at work or a significant deterioration in work performance;

(C) A report of drug or alcohol use, provided by a reliable and credible source;

(D) Evidence that an individual has tampered with a drug or alcohol test during employment with the current covered employer;

(E) Information that an employee has caused, contributed to or been involved in an accident while at work; or
(F) Evidence that an employee has used, possessed, sold, solicited or transferred drugs or used alcohol while working or while on the covered employer’s premises or while operating the covered employer’s vehicle, machinery or equipment;

(16)(A) “Safety-sensitive position” means a position involving a safety-sensitive function pursuant to regulations governing drug or alcohol testing adopted by the United States department of transportation. For drug-free workplaces, the commissioner is authorized, with the approval of the advisory council on workers’ compensation, to promulgate rules expanding the scope of safety-sensitive position to cases where impairment may present a clear and present risk to co-workers or other persons;

(B) “Safety-sensitive position” means, with respect to any employer, a position in which a drug or alcohol impairment constitutes an immediate and direct threat to public health or safety, such as a position that requires the employee to carry a firearm, perform life-threatening procedures, work with confidential information or documents pertaining to criminal investigations or work with controlled substances; or a position in which a momentary lapse in attention could result in injury or death to another person; and

(17) “Specimen” means tissue, fluid or a product of the human body capable of revealing the presence of alcohol or drugs or their metabolites.

50-9-116. Consideration of prescriptions issued within six months prior to positive confirmed drug result.

(a) As used in this section:

(1) “Issued” means the date that the licensed physician physically wrote or electronically transmitted the prescription to the pharmacy; and

(2) “Valid prescription” means a prescription that is written or electronically sent by a licensed practitioner for the individual subject to a drug test pursuant to this chapter and filled in a licensed pharmacy.

(b) Notwithstanding this chapter to the contrary, the medical review officer shall only consider prescriptions issued within six (6) months prior to a positive confirmed drug result for purposes of determining a valid prescription and immunity from actions authorized by this chapter following a positive confirmed drug result.

53-3-104. Authority and powers of the commissioner — Special provisions for trade products — Rules and regulations.

(a)(1)(A) The commissioner has the authority to define all varieties and types of dairy products and trade products.

(B) The commissioner is further empowered to inspect and establish rules and regulations governing the production, storing, transportation, handling, processing, packaging and labeling of any and all dairy products and trade products.

(2) The product name for any trade product shall include the word “imitation” followed immediately by the name of the dairy product in semblance of which the trade product is made; further, the word “imitation” shall be in print of the same size as the name of the dairy product it precedes.

(b) The commissioner is further authorized to delegate the commissioner’s authority under subsection (a) to any individual the commissioner deems
qualified to assist the commissioner in the administration of this chapter.

(c) In the performance of the commissioner's official duties, the commissioner is authorized and empowered to enter during business hours all creameries, cheese factories, milk depots, milk plants, ice cream factories, milk condensaries, and similar plants processing or manufacturing trade products for the purpose of executing this chapter.

(d) The rules and regulations promulgated by the commissioner under the authority of this chapter shall comply with the following requirements:

(1) A copy of the proposed rules and regulations shall be mailed to every licensed processor and manufacturer of dairy products or trade products and all milk producer cooperatives operating within the state;

(2) The notice shall specify a time, no sooner than fifteen (15) days after the date of the notice, and the place for a hearing and shall allow for written objections to be filed five (5) days prior to the hearing;

(3) After the hearing, based on the evidence, any proposed rules and regulations shall be submitted by the commissioner to the attorney general and reporter for approval as to form and legality;

(4) Once the rules and regulations have been officially adopted and filed with the secretary of state, they shall become enforceable thirty (30) days after adoption and filing, and a copy of the official rules and regulations shall be mailed to all licensed processors and manufacturers of dairy products or trade products, and all milk producer cooperatives operating in the state. Also, copies shall be mailed to all registrants and licensed distributors of dairy products or trade products in the state;

(5) Proposals to promulgate rules and regulations may be made by the commissioner or by any other interested person. If any interested person other than the commissioner proposes rules and regulations, the person shall file an application in writing with the commissioner, giving the person's proposed rules and regulations, together with a brief statement of the reasons and needs for promulgating the rules and regulations. The commissioner may institute a hearing, as provided in this chapter, when the commissioner deems, after investigation and consideration of the proposal submitted by another interested person, that the proposal seems reasonable and justified or notify the person that the person's application has been denied and the grounds for the denial; and

(6) Any revision, amendment or termination of existing rules and regulations shall follow the same procedure as set forth in this section.

(e)(1) Notwithstanding any rule promulgated under subsection (a) and except as provided in subdivision (e)(2), the department shall not regulate the production of unpasteurized butter provided that it is produced:

(A) In a facility separate from production of pasteurized products;
(B) Solely for intrastate commerce; and
(C) By a person licensed by the department as a dairy plant.

(2) Any unpasteurized butter sold pursuant to this subsection (e) must bear the following warning on the principal display panel or panels of the label:

WARNING: This product has not been inspected by the Department of Agriculture. Raw (unpasteurized) butter may contain disease-causing microorganisms. Persons at highest risk of disease from these organisms include newborns and infants; the elderly; pregnant women; those taking corticosteroids, antibiotics, or antacids; and those having chronic illnesses or other conditions that weaken their immunity.
53-8-223. Limited authority of local government to regulate food or drink.

(a) Notwithstanding any law to the contrary, and except for subdivision (c)(1), the local government's authority under title 13, chapters 7, 16, and 28, and the local government's authority to regulate roadways, traffic, and the provision of utility services, this state is the exclusive regulator of food and drink sellers, vendors, vending machine operators, food establishments, and food service establishments in this state.

(b) A local government, as that term is defined in § 7-51-2001, shall not impose a tax, fee, or otherwise regulate the wholesale or retail sale, manufacture, or distribution of any food or drink, food or drink content, amount of food or drink content, or food or drink ingredients, except as authorized under title 67, chapter 6, or § 67-4-504, or pursuant to a contract with the department of agriculture.

(c) This section:

1. Does not prohibit a local government from regulating zoning, building codes, locations, hours of operation, or the issuance of permits, or from performing any other local governmental functions as authorized by existing state law, with respect to food and drink sellers and vendors, vending machine operators, food establishments, and food service establishments; and

2. Applies to both the sale and distribution of food or drink by food and drink sellers, food establishments, food service establishments, manufacturers of food and drink products regulated under chapter 1 of this title, and vending machines.


(a) Information sent to, contained in, and reported from the database in any format is confidential and not subject to title 10, chapter 7, regarding public records, and not subject to subpoena from any court and shall be made available only as provided for in § 53-10-308 and to the following persons in accordance with the limitations stated and rules promulgated pursuant to this part, or as otherwise provided for in § 53-10-311:

1. Personnel of the committee specifically assigned to conduct analysis or research;

2. Authorized committee, board, or department personnel or any designee appointed by the committee engaged in analysis of controlled substances prescription information as a part of their assigned duties and responsibilities;

3. A healthcare practitioner conducting medication history reviews who is involved in the care of a patient or making decisions regarding patient care or patient enrollment; a healthcare practitioner or supervising physician of a healthcare practitioner conducting a review of all medications dispensed by prescription attributed to that healthcare practitioner or a healthcare practitioner having authority to prescribe or dispense controlled substances, to the extent the information relates specifically to a current or bona fide prospective patient of the healthcare practitioner, to whom the healthcare practitioner has prescribed or dispensed, is prescribing, dispensing, approving of the prescribing or dispensing, or considering prescribing or dispensing any controlled substance. Each authorized individual referenced under this subdivision (a)(3) shall have a separate identifiable authentica-
tion for access;

(4) A healthcare practitioner under review by a quality improvement committee, as defined in § 63-1-150, who submits information contained in, and reported from the database to a quality improvement committee;

(5) A licensed pharmacist conducting drug utilization or medication history reviews who is actively involved in the care of the patient or making decisions regarding care of the patient or patient enrollment. Each authorized individual referenced under this subdivision (a)(5) shall have a separate identifiable authentication for access;

(6) The state chief medical examiner, or deputy state chief medical examiner appointed pursuant to § 38-7-103, or a county medical examiner appointed pursuant to § 38-7-104 when acting in an official capacity as established in § 38-7-109; provided, any access to information from the database shall be subject to the confidentiality provisions of this part except where information obtained from the database is appropriately included in any official report of the county medical examiners, toxicological reports, or autopsy reports issued by the county medical examiner, state chief medical examiner, or deputy state chief medical examiner under § 38-7-110(c);

(7) Personnel of the following entities actively engaged in analysis of controlled substances prescription information as a part of their assigned duties and responsibilities related directly to the TennCare program:

(A) The office of inspector general;
(B) The medicaid fraud control unit; and
(C) The bureau of TennCare’s chief medical officer, associate chief medical directors, director of quality oversight, and directors of pharmacy;

(8) Personnel of the bureau of TennCare who request aggregate controlled substances prescribing information from the database which does not contain personally identifiable data but only on request by the following personnel of the bureau:

(A) The chief medical officer;
(B) Associate chief medical directors;
(C) Director of quality oversight; and
(D) Directors of pharmacy;

(9) A quality improvement committee, as defined in § 63-1-150, of a group practice that is engaged in the provision of healthcare services, as part of the committee’s confidential and privileged activities under § 63-1-150(c)(3) with respect to the evaluation of the safety, quality, appropriateness, or necessity of healthcare services performed by a healthcare practitioner, if the information is furnished to a quality improvement committee by the healthcare practitioner that is the subject of review by the quality improvement committee;

(10) A quality improvement committee, as defined in § 68-11-272, of a hospital licensed under title 68 or title 33, as part of the committee’s confidential and privileged activities under § 68-11-272(b)(4) with respect to the evaluation, supervision, or discipline of a healthcare provider employed by the hospital or any of its affiliates or subsidiaries, who is known or suspected by the hospital’s administrator to be prescribing controlled substances for the healthcare practitioner’s personal use;

(11)(A) Law enforcement personnel; provided, that such personnel are engaged in the official investigation and enforcement of state or federal laws involving controlled substances or violations under this part; and that any law enforcement personnel receiving information from the
database pursuant to this section shall comply with this subsection (a);

(B) Any law enforcement personnel; provided, that for an officer or agent to have the authorization to request information from the database, the officer or agent shall first be preapproved. Preapproval shall require:

(i) Agents of a judicial drug task force employed by the United States department of justice, law enforcement officers certified pursuant to § 38-8-107, and law enforcement officers certified by other states to require:

(a) The list of preapproved agents to be sent to the district attorney general in the judicial district in which the task force has jurisdiction; and

(b) By December 1 of each year, each district attorney general shall send to the director a list of applicants authorized to request information from the database from that general’s judicial district; or

(ii) Tennessee bureau of investigation (TBI) agents or drug enforcement administration agents to require:

(a) Preapproval by the assistant special agent in charge or the agent’s immediate supervisor and division head. Approved applicants shall be sent to the board by the director; and

(b) By December 1 of each year, the TBI director or the assistant special agent in charge shall send to the director of the controlled substance database, committee, or commissioner a list of applicants authorized to request information from the database;

(C) An application submitted by law enforcement personnel shall include, but not be limited to, the:

(i) Applicant’s name; title; agency; agency address; agency contact number; agency supervisor; and badge number, identification number, or commission number; and the business e-mail address of each applicant officer or agent, the appropriate district attorney general, DEA agent, and, if a TBI agent, the TBI director and their business e-mail addresses; and

(ii) Signatures of the applicant, the applicant’s approving supervisor, and the district attorney general of the judicial district, assistant special agent in charge in which the applicant has jurisdiction, or the approving division head and the TBI director; and

(D) It shall be a duty of the committee or commissioner, through the director, as part of the duties to maintain the database pursuant to § 53-10-305(e), to receive and verify the lists of authorized applications sent to it by the district attorneys general, assistant special agent in charge, and the director of the TBI pursuant to this subsection (a);

(12) The judge of a drug court treatment program, created under the Drug Court Treatment Act of 2003, compiled in title 16, chapter 22, and pursuant to this part to the extent the information relates specifically to a current participant in the drug court treatment program. Any judge or personnel of a drug court treatment program receiving information from the database pursuant to this subdivision (a)(12) shall comply with this subsection (a) and the following:

(A) Any judge of a participating drug court requesting information from the database shall submit an application to the director pursuant to subdivision (a)(12)(B) that must include acknowledgment by the district attorney general of the judge’s judicial district that the judge is seeking information from the database on a current participant in the drug court
treatment program;

(B) An application submitted by the judge of a drug court treatment program shall include:

(i) The applicant’s name, title, agency, agency address, and business e-mail address;

(ii) The signatures of the judge and the district attorney general of the judicial district in which the judge has jurisdiction; and

(iii) The names of any current participants in the drug court treatment program that the judge has a reasonable belief may not be in compliance with the guidelines or rules of participation in the drug court treatment program as they pertain solely to the participant’s unauthorized use or misuse of controlled substances. Such information shall not be considered a public record as defined by § 10-7-503; and

(C) The commissioner, through the director, shall, as part of the duty to maintain the database pursuant to this part, receive the authorized application sent by the judge of the participating drug court treatment program pursuant to this subsection (a); and

(13) A healthcare practitioner delegate, who is acting under the direction and supervision of a healthcare practitioner as an agent of a healthcare practitioner. Each authorized individual shall have a separate identifiable authentication for access.

(b) When requesting information from the database, law enforcement personnel shall provide a case number as part of the process for requesting information from the database. The case number entered shall correspond with an official investigation involving controlled substances and information requested should directly relate to the investigation.

(c) The commissioner, in consultation with the committee, may, by rule, establish a fee for providing information to a law enforcement agency, judicial district drug task force, TBI, or a judge of a drug court treatment program pursuant to this section. In determining the fee and type of fee to be charged, the commissioner may consider options such as an annual fee or a per use, incremental cost basis fee, or other methods as the commissioner deems appropriate.

(d) Law enforcement personnel, who are authorized to request information from the database, shall resubmit their identifying application information that was submitted pursuant to this section to the appropriate district attorney, United States attorney, TBI director, or assistant special agent in charge by November 20 of each year. Such resubmitted applications shall be sent by the appropriate district attorney general, TBI director, or assistant special agent in charge to the board by December 1 of each year. If during the calendar year a name is added to the list, removed from the list, or information about a person on the list changes, the appropriate district attorney, or special agent in charge, shall immediately notify the director of the controlled substance database, committee, or commissioner of any changes to the list submitted or in the information submitted for each attorney, officer, or agent on the list application.

(e)(1) Information obtained by law enforcement personnel from the database may be shared with other law enforcement personnel or prosecutorial officials only upon the direction of the officer or agent who originally requested the information and may only be shared with law enforcement personnel from other law enforcement agencies who are directly participat-
ing in an official joint investigation.

(2) Any information obtained from the database that is sent to law enforcement personnel shall also be sent to the district attorney general of the judicial district to the district in which such officer or agent has jurisdiction. Likewise, any database information sent to a TBI agent or DEA agent shall also be sent to the TBI director or the assistant special agent in charge.

(3)(A) Information obtained from the database by the judge of a drug court treatment program may be shared with personnel of a drug court treatment program.

(B) For the purposes of this subdivision (e)(3), “personnel of a drug court treatment program” includes a judge of a drug court and any person employed by the drug court and designated by the judge to require access to the information in order to efficiently administer the drug court treatment program.

(4) Any information obtained from the database that is sent to a judge of a drug court treatment program shall also be sent to the district attorney general of the judicial district in which the judge has jurisdiction.

(f)(1) To ensure the privacy and confidentiality of patient records, information obtained from the database by law enforcement personnel shall be retained by the law enforcement personnel’s respective department or agency. The information obtained from the database shall not be made a public record. Any information used in a criminal or administrative action from the controlled substance monitoring database shall be placed under seal or have patient names and all other personally identifying information of patients redacted. Information obtained from the database shall be maintained as evidence in accordance with each law enforcement agency’s respective procedures relating to the maintenance of evidence.

(2) To ensure the privacy and confidentiality of patient records, information obtained from the database by a drug court treatment program shall be retained by the program director of the drug court treatment program. The information obtained from the database shall not be made a public record, notwithstanding the use of the information in court for prosecution purposes.

(g) Any information disseminated pursuant to subdivisions (a)(1)-(a)(3), and (a)(5)-(a)(8) shall be released to the individual or entity requesting the information by the database manager or by password-protected Internet access.

(h) Any healthcare practitioner or healthcare practitioner delegate receiving patient-specific information pursuant to subdivision (a)(1), (a)(2), (a)(3), or (a)(5) shall not disclose the information to any person other than:

1. The patient to whom the information relates;
2. Other healthcare practitioners who are involved or have a bona fide prospective involvement in the treatment of the patient, or healthcare practitioners identified by the information for the purpose of verifying the accuracy of the information;
3. Any law enforcement personnel to whom reporting of controlled substances being obtained in a manner prohibited by § 53-11-401, or § 53-11-402(a)(3) or (a)(7), is required by § 53-11-309, or any agent of the healthcare practitioner who is directed by the healthcare practitioner to cause a report to law enforcement to be made in accordance with § 53-11-
309(a) and (d); or

(4) A healthcare practitioner or healthcare practitioner delegate who may place a copy of a patient’s report obtained from the database pursuant to this section in that patient’s medical records. Once placed in a patient’s medical records, any copy of a patient’s report obtained from the database pursuant to this section shall be subject to disclosure on the same terms and conditions as medical records under §§ 63-2-101 and 63-1-117.

(i) If law enforcement personnel or a judge of a drug court treatment program has probable cause to believe, based upon information received from a database request, that a healthcare practitioner may be acting or may have acted in violation of the law, the officer, agent, or judge shall consult with the appropriate licensing board as established under title 63 or title 68.

(j)(1)(A) At least every six (6) months, the committee or commissioner or their designee shall send a list to each district attorney general containing all requests made for database information during the previous six (6) months.

(B) The list shall include:
   (i) The name of the requesting attorney, officer, or agent;
   (ii) The attorney, officer, or agent’s agency;
   (iii) The date of the request; and
   (iv) The nature of the request, including the case number for each attorney, officer, or agent making a request in such district attorney’s judicial district.

(C) Likewise, a list shall be sent to the director of the TBI for all TBI agents or the assistant special agent in charge for all DEA agents making requests during the previous six (6) months.

(2) Each district attorney general, or assistant special agent in charge and the TBI director shall use the list to perform an audit to determine if the database information requests made during the preceding six-month period correspond to specific cases under investigation in the applicable judicial district or by the bureau and if the information requested is relevant and pertinent to an investigation.

(3) Each district attorney general, assistant special agent in charge, and the TBI director shall verify all database information requests contained on the list received and send it back to the board within sixty (60) days of receipt. If a database information request does not correspond to an investigation in the applicable jurisdiction or if the information requested was not relevant or pertinent to the information requested, the district attorney general, assistant special agent in charge, or TBI director shall so note on the verified list and shall investigate the discrepancy and make a report back to the director of the controlled substance database within a reasonable period of time.

(4) The results of the audit conducted pursuant to subdivision (j)(2) shall be discoverable by a healthcare practitioner or healthcare practitioner delegate charged with violating any state or federal law involving controlled substances or under a notice of charges proffered by an appropriate licensing board for a violation of any law involving controlled substances, but only the results pertaining to that healthcare practitioner or healthcare practitioner delegate are discoverable. If, however, there is an active criminal investigation involving a healthcare practitioner or healthcare practitioner delegate or the healthcare practitioner or healthcare practitioner delegate is under
investigation by any investigations or prosecution unit of the appropriate licensure board, the results of the audit conducted pursuant to subdivision (j)(2) shall not be discoverable by the healthcare practitioner or the healthcare practitioner delegate during either such period.

(k)(1) Any person who obtains or attempts to obtain information from the database by misrepresentation or fraud is guilty of a Class A misdemeanor.

(2) Any person who knowingly uses, releases, publishes, or otherwise makes available to any other person or entity any information submitted to, contained in, or obtained from the database for any purpose other than those specified in this part is guilty of a Class A misdemeanor.

(3) Intentional unauthorized use or disclosure of database information by law enforcement personnel is a Class A misdemeanor.

(4) Any law enforcement personnel whom the department has reason to suspect of violation of this section or who has been charged with a violation of this section shall have such person’s authorization to request information from the database suspended. Any law enforcement personnel, found guilty of a violation of this subsection (k) shall have such person’s authorization to request information from the database permanently revoked.

(5) Where an individual authorized under subsection (a) acts in good faith in accessing or using information from the database in accordance with the limitations under this part, that person shall not incur any civil or criminal liability as a result of that use or access.

(l)(1) The following personnel of the department of mental health and substance abuse services actively engaged in analysis of controlled substances prescription information as a part of their assigned duties and responsibilities shall have access to the database for controlled substances prescription information for specific patients or healthcare practitioners:

(A) The chief pharmacist;
(B) The state opioid treatment authority (SOTA) or SOTA designee; and
(C) The medical director.

(2) Aggregate controlled substances prescribing information from the database which does not contain personally identifiable data may be provided upon request by the following personnel of the department of mental health and substance abuse services, who are actively engaged in analysis of controlled substances prescription information as provided in this subsection (l), and may be provided upon request to other personnel of the department of mental health and substance abuse services and other state government agencies as needed to fulfill assigned duties and responsibilities:

(A) The chief pharmacist;
(B) The SOTA; or
(C) The medical director.

(m) Where an investigation is conducted under § 38-7-109, and information within the database is obtained pursuant to the requirements of this part, there exists a rebuttable presumption that the county medical examiner is acting in good faith.

(n) Authorized committee, board, or department personnel and any designee appointed by the committee engaged in analysis of controlled substances prescription information as a part of the assigned duties and responsibilities of their employment may publish, or otherwise make available to healthcare practitioners and to the general public, aggregate unidentifiable personal data contained in or derived from the database for the purpose of educational
outreach.

(o) Prohibited access to, an inappropriate request for, or illegal disclosure of information from the database by a judge of a drug court treatment program shall be considered a violation of the canons of the Code of Judicial Conduct, including Rules 1.2, 1.3, and 3.5.


(a) Notwithstanding this part to the contrary, the committee or the commissioner:

  (1) May release confidential information from the database regarding healthcare practitioners, healthcare practitioner delegates, or patients to department personnel engaged in an investigation, adjudication, or prosecution of a violation under any state or federal law that involves a controlled substance;

  (2) May release confidential information from the database regarding healthcare practitioners, healthcare practitioner delegates, or patients to law enforcement personnel engaged in an investigation, adjudication, or prosecution of a violation under any state or federal law that involves a controlled substance, pursuant to the procedure established in § 53-10-306(a)(11);

  (3) Shall release information from the database when ordered by a court to do so upon the court’s finding that disclosure is necessary for the conduct of proceedings before the court regarding the investigation, adjudication, or prosecution of a violation under any state or federal law that involves controlled substances and after an appropriate protective order is issued regarding the information to be released to the court; and

  (4)(A) Shall release confidential information from the database to the attorney general and reporter upon request for the purpose of reviewing, querying, or otherwise using the data in conjunction with investigating or litigating a civil action involving controlled substances. The data may be disclosed at the attorney general and reporter’s discretion to:

    (i) Designees within the office of the attorney general and reporter who are participating in, assisting with, or supervising any such investigation or litigation;

    (ii) Other parties to litigation to which the attorney general and reporter is a party in which the data is relevant so long as disclosure of the data is in furtherance of litigation or resolution of litigation, and the data is provided only after an appropriate protective order is issued prohibiting the other parties from using the confidential information for any purpose other than defending or resolving the litigation and prohibiting the sharing of confidential information with litigants in other cases or other parties;

    (iii) Targets of an investigation conducted by the attorney general and reporter for the purpose of negotiating a settlement regarding conduct to which the data is relevant only after an appropriate protective order is issued or a confidentiality agreement is executed regarding the data;

    (iv) Designated consultants or experts who agree to maintain the confidentiality of the data and who are retained, in conjunction with an investigation or litigation, by:
(a) The attorney general and reporter;
(b) Other parties to litigation to which the attorney general and reporter is a party as described in subdivision (a)(4)(A)(ii); or
(c) Targets of an investigation conducted by the attorney general and reporter as described in subdivision (a)(4)(A)(iii); and
(v) A court for evidentiary or other purposes after an appropriate protective order is issued regarding the confidential information.

(B) The attorney general and reporter shall comply with the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. § 1320d et seq.) to the extent that it applies to any such disclosure.

(b) Any data authorized to be released under this section or § 53-10-306, other than aggregate data or data released to personnel of the department, the attorney general and reporter, or a health-related board is limited to reports of drugs prescribed to specific patients or prescribed by specific providers, and nothing in this part creates a right to other data such as provider query audits or registration information, nor does anything in this part require the committee or department to provide analytics or analysis of any data available in the database.

54-1-501. Use of project delivery method of construction manager/general contractor (CM/GC) services.

(a) Notwithstanding any other law to the contrary, the department is authorized to use the project delivery method of construction manager/general contractor (CM/GC) services. The CM/GC method allows the department to engage a construction manager during the design process to provide input on the design. During the design phase, the construction manager provides advice, including, but not limited to, constructability review, scheduling, pricing, and phasing to assist the department in designing a more efficient and well-designed project. The construction manager/general contractor may subsequently construct the project if the department and the CM/GC reach agreement on a guaranteed maximum price for construction.

(b) The department will select CM/GC projects based upon generally accepted industry criteria that include factors such as fostering innovation, mitigating risk, improving design quality, improving cost control, and optimizing construction schedules. Projects suited for the CM/GC process include instances where the department needs feedback during the design phase due to complex components that require innovation. Other projects that are suited for CM/GC are projects that have public involvement, third-party considerations such as acquisition of right-of-way or utility relocation issues, or other factors that impact the overall schedule. Projects not suited for the CM/GC process include routine maintenance and resurfacing projects or other construction projects that present a low level of technical complexity, a low level of risk management, and simple traffic phasing, and that do not have any compelling need for project acceleration.

(c) Before using the CM/GC method of project delivery, the commissioner shall send written notice to the chair of the transportation and safety committee of the senate and the chair of the transportation committee of the house of representatives. The written notice must identify the project and the reasons for deciding to use the CM/GC method.
54-1-503. Selection of projects by department.

The department’s authority to use the CM/GC method as provided in this part is subject to the following limitations:

(1) If a proposed CM/GC contract has a total estimated contract amount in excess of seventy million dollars ($70,000,000), then the department shall specifically identify the project as a proposed CM/GC project in the transportation improvement program submitted annually to the general assembly in support of the commissioner’s annual funding recommendations; and

(2) The cumulative cost of the CM/GC projects awarded in any single fiscal year must not exceed twenty-five percent (25%) of the total amount of construction contract awards made in the previous fiscal year, except as the general assembly may otherwise approve in accordance with the annual appropriations act.

54-1-504. Multi-phase process for selecting the CM/GC that is the most responsive and responsible proposer.

(a) If the commissioner determines that the CM/GC method of procurement is appropriate for a project, the commissioner shall establish a multi-phase process as described in subdivisions (b)(1)-(4) to select the CM/GC that is the most responsive and responsible proposer.

(b)(1) Phase 1 of the process is the appointment of the selection committee, as follows:

(A) For each request for proposal (RFP) for CM/GC services, the commissioner shall appoint a selection committee to evaluate and score all responsive proposals in accordance with the procedures established in the RFP;

(B) The selection committee shall have a total of eight (8) members. The commissioner shall appoint five (5) department employees to the selection committee based on their qualifications and experience, including at least one (1) employee who is a licensed professional engineer in this state;

(C) In addition, the commissioner shall appoint three (3) members who are not employees of the department, all of whom must be residents of this state, with one (1) member appointed from and residing in each grand division of the state. At least two (2) of these three (3) members must have a minimum of ten (10) years of construction or highway engineering design experience, and at least one (1) of these two (2) members must have a valid professional engineering license. The other one (1) of these three (3) members must have either a minimum of ten (10) years of construction or highway engineering design experience or a minimum of five (5) years of employment experience in a banking, finance, accounting, surety, or insurance position.

(2) Phase 2 of the process is the development and issuance of the request for proposals (RFP), as follows:

(A) The RFP used to solicit a CM/GC proposal shall be reviewed by the selection committee established under subdivision (b)(1). Prior to the issuance of the RFP, the selection committee shall approve the proposed RFP indicating that the RFP complies with the requirements in this part, in a closed meeting that is not open to the public and by a majority vote;

(B) The RFP shall not require prior experience with any particular project delivery method as a condition for submitting a responsive pro-
posal. Further, the RFP shall not solicit information concerning prior experience with any particular contract delivery method, and the RFP shall not give any credit or preference for any particular contract delivery method experience in the scoring of any proposal. The RFP shall include, but not be limited to, the following:

(i) The procedures for submitting proposals and the criteria for evaluating qualifications and the relative weight for each criterion as indicated in the technical score matrix, which shall be attached to the RFP;

(ii) The form of the contract to be awarded for pre-construction services;

(iii) A listing of the types and scope of pre-construction services that will be required;

(iv) The scope of the intended construction work, with a requirement that the CM/GC, if awarded the construction contract, shall complete at least thirty percent (30%) of the negotiated construction cost of the entire project internally. The cost for pre-construction services shall not be considered part of the thirty percent (30%) but may be considered a specialty item;

(v) Any budget limits for the construction project and the pre-construction services;

(vi) The method of payment and structure of fees for the pre-construction services;

(vii) A requirement that the proposer submit relevant information regarding any licenses, registration and credentials that may be required to construct the project, including information on the revocation or suspension of any license, registration or credential. A Tennessee contractor’s license shall not be required to submit a proposal or to be considered for award of a contract for pre-construction services; provided, however, that a Tennessee contractor’s license shall be required prior to the execution of any contract for pre-construction services or to construct the project;

(viii) A requirement that the proposer submit evidence that establishes the entity has the capacity to obtain the required bonding and insurance for the project;

(ix) A requirement that the proposer submit information concerning any debarment or default from a federal, state or local government project within the past five (5) years;

(x) A requirement that the proposer provide information concerning the bankruptcy or receivership of any member of the entity including information concerning any work completed by a surety;

(xi) A requirement that the proposing firm provide evidence that the proposing firm has actual experience in the successful construction of other highway transportation projects, as well as the competency, capability and capacity to complete a project of similar size, scope or complexity; and further, the proposing firm may not rely on the construction experience of a subcontractor or other team member for the purpose of meeting this requirement;

(xii) An affidavit that shall be signed by each proposer competing for a CM/GC contract affirming that the company, its agents, subcontractors and employees have not violated the prohibitions described in
subdivisions (b)(3)(F) and (G); and

(xiii) A prohibition that excludes any person or firm that has received compensation for assisting the department in preparing the RFP from submitting a proposal in response to the RFP, or participating as a CM/GC team member;

(C) Once the selection committee has approved the RFP and determined that it complies with the requirements of this part, the RFP shall be published on the department's Internet web site, and may be advertised in a newspaper of general circulation in the region of the state where the work is to be performed and/or published in such other internet or print media of general circulation so as to afford an opportunity for qualified firms to be considered for award of the contract.

(3) Phase 3 of the process, which may be known as the “CM/GC Selection-Design Phase,” is as follows:

(A) The department's RFP shall establish a procedure for the evaluation and selection of a CM/GC to perform pre-construction services and potentially construct the project. Members of the selection committee are to be instructed as to their responsibilities and duties, as established in this part, prior to their review or evaluation of the proposals;

(B) All proposals received by the department in response to the RFP, and any documents used by the selection committee to evaluate and score the proposals, shall remain confidential and not subject to disclosure to any proposer or to the public until after the department issues a written notice of award as provided in subdivision (b)(3)(E);

(C) The RFP may provide for the selection committee to make an initial review and evaluation of interested proposers through a request for qualifications (RFQ), with a more detailed proposal to be submitted by a selected list of proposers, and it may provide for interviews or presentations. The RFP may also provide for a process by which members of the selection committee, through a department employee identified in the RFP as a point of contact, may request and obtain information on technical matters to assist them in the evaluation of proposals;

(D) Upon completion of the evaluation process, each member of the selection committee shall independently review and score the proposals. Each member shall score the proposals pursuant to the scoring matrix that the department provides in the RFP and based on the RFP’s evaluation criteria. The scores will be tallied and averaged according to the procedure established in the RFP; provided, however, that the scores of the two (2) selection committee members giving the highest and lowest scores on a proposal shall be excluded when computing the average score for each proposal. Upon completion of the scoring, the proposals will be ranked in order of the highest aggregate score to the lowest aggregate score. The proposer whose proposal receives the highest aggregate score will be considered the best-evaluated proposer;

(E) The proposals shall be submitted in rank order to the commissioner. The commissioner may either accept the selection committee's recommendation of the best-evaluated proposer, or the commissioner may reject all proposals and proceed with construction of the project through any lawful method for procuring a construction services contract. The department shall send all proposers a written notice of award to the best-evaluated proposer, or a written notice that all proposals have been rejected. If the
department issues a written notice of award, the notice shall include a copy of the scores from each member of the selection committee for each RFP proposal;

(F) Throughout the selection process:

(i) The members of the selection committee shall not communicate with each other concerning their review or evaluation of the proposals;

(ii) Any entity that submits a proposal in response to the RFP, as well as their employees, agents and subcontractors, shall not communicate with any member of the selection committee, or with any employee or official of the department, concerning the review or evaluation of any proposal, except that a proposer may communicate with those department employees who are specifically listed in the RFP as appropriate points of contact and in accordance with procedures established in the RFP that allow proposers to communicate with entities such as utilities and permit agencies. Any proposer’s failure to comply with this restriction shall render said proposer’s RFP response ineligible for selection;

(iii) To confirm that no member of the selection committee has been improperly influenced, prior to reviewing the RFP responses, each committee member must affirmatively complete an affidavit indicating that such member has not discussed the proposals or such member’s review of the same with any other selection committee member, with any department employee other than those listed in the RFP as an appropriate point of contact, or with any of the proposers, their agents, employees or subcontractors;

(iv) Each member of the selection committee shall also be required to complete an affidavit stating that such member is not aware of having any conflict of interest, financial or otherwise, regarding the member’s ability to fairly evaluate all proposals;

(G) Entities competing for a CM/GC contract are also prohibited from offering or paying a contingency fee of any type that is directly tied to specific actions or work designed to help the proposer obtain a contract through the CM/GC RFP process. The selected CM/GC firm shall complete an affidavit affirming this information before being awarded a contract. Falsely affirming that a contingency fee, associated with the CM/GC RFP process, was neither offered nor paid shall be grounds for debarment of the proposer under official compilation Rules and Regulations of the State of Tennessee, Chapter 1680-05-01, governing suspension and debarment for department contractors.

4) Phase 4 of the process, which may be known as the “CM/GC Selection-Construction Phase,” is as follows:

(A) Once the design has been completed, or has been sufficiently developed to allow the CM/GC to prepare a proposed guaranteed maximum price for construction of the project, or a part of the project, the department shall conduct the steps described in subdivision (4)(B) before proceeding with any construction of the project;

(B) The department shall:

(i) Prepare and compile the contract plans, specifications, special provisions, and other requirements which will comprise the contract for construction of the project;

(ii) Prepare a detailed construction cost estimate to evaluate the appropriate price for construction of the project as designed; and
(iii) If directed by the commissioner, have an independent third-party estimator prepare a detailed construction cost estimate to confirm the appropriate price for construction of the project as designed;

(C) The department's detailed construction cost estimate, and any construction cost estimate prepared by an independent third-party estimator, shall not be disclosed to the CM/GC, and shall remain confidential and not subject to public disclosure until after award of the contract for construction of the project;

(D) The contract shall require the CM/GC to self-perform a portion of the construction work comprising at least thirty percent (30%) of the total cost for construction, excluding specialty items. The cost for pre-construction services shall not be considered part of the thirty percent (30%) but may be considered a specialty item;

(E) Based on the contract plans, specifications, special provisions, and other contract terms and conditions compiled by the department, the CM/GC shall prepare a guaranteed maximum price, including any authorized contingency, for construction of the project. When completed, the CM/GC's proposed GMP shall be submitted to the department for review. The CM/GC's proposed GMP shall otherwise remain confidential and not subject to public disclosure until after award of the contract for construction of the project;

(F) The department shall compare the CM/GC's proposed GMP with its own confidential construction estimate, and with any construction estimate prepared by an independent third-party estimator. If the GMP does not exceed the department's estimate, or the independent third-party estimate, by more than ten percent (10%), the commissioner may, but is not required to, award the contract for construction of the project to the CM/GC;

(G) If the commissioner rejects the proposed GMP, the department may continue to conduct contract discussions with the CM/GC to develop an acceptable GMP for the project as designed. Alternatively, the department may direct the CM/GC to provide additional pre-construction services as needed to assist in the further development of contract plans, terms, or specifications for the purpose of repeating the Phase 4 process steps established in this subdivision (b)(4);

(H) If the CM/GC and the commissioner are unable to reach agreement on the GMP, the commissioner may proceed with construction of the project through the low bid procurement process.

54-1-505. Protesting the award of a CM/GC contract.

(a) A proposer who participated in the CM/GC RFP process may protest the award of a CM/GC contract to the commissioner. The protest shall be submitted in writing within seven (7) calendar days after the proposer knows or should have known of the facts giving rise to the protest. In the case of a pending award, a stay of award may be requested. The commissioner or the commissioner's designee has the authority to settle and resolve a protest.

(b) Upon receipt of the "notice of award" letter which will be sent to all proposers by email, facsimile or mail prior to awarding the contract to the recommended proposer, the proposers shall have seven (7) calendar days to review the procurement file and to file a protest. In no event shall any protest
be allowed, however, more than seven (7) calendar days after the proposer knew or should have known of the facts giving rise to the protest. If no protest letter with a protest bond is received in accordance with the requirements described in this subsection (b), then the department shall proceed with the award. The protest procedures and protest bond requirements are as follows:

(1) The protester shall deliver by mail or hand delivery an original protest letter, manually signed in ink, with a protest bond to the commissioner within seven (7) calendar days after the proposer knew or should have known of the facts giving rise to the protest. The protest letter shall include the solicitation number, the reason or reasons for the protest, and the signature of an attorney or protesting party indicating that the signer has read the document, and that to the best of the signer’s knowledge, information, and belief formed after reasonable inquiry, it is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law, and that it is not interposed for any improper purpose, such as to harass, limit competition, or to cause unnecessary delay or needless increase in the cost of the procurement or of the litigation;

(2) The protest, and any review or appeal thereof, shall be based exclusively on the written record of the CM/GC procurement process described in § 54-1-504(b)(2) and (3), unless there are specific factual allegations that, in the course of evaluating or scoring the proposals, the selection committee or a member thereof has engaged in unlawful conduct or conduct so arbitrary and capricious as to amount to an illegality, in which case evidence outside the written record may be submitted;

(3) The protest bond shall be in the amount of two percent (2%) of the department’s estimate of the total project cost;

(4) If the protest is not resolved by mutual agreement, the protester may request that the matter be considered at a meeting with the state protest committee created in § 4-56-103. The protester shall be required to submit a letter of appeal to the commissioner of general services and the commissioner of transportation requesting a meeting with the state protest committee within seven (7) calendar days from the date of the final determination letter provided by the commissioner or the commissioner’s designee. In the event that a letter of appeal is not received within the seven (7) calendar days, the department shall proceed with an award;

(5) If the protester submits a letter of appeal to the state protest committee within the seven (7) calendar days, the state protest committee shall hold a protest meeting and make a final determination in writing to the protester and the commissioner;

(6) The department shall hold the protest bond for at least eleven (11) calendar days after the date of the final determination by the commissioner or the commissioner’s designee. If the protester appeals the commissioner’s final determination to the state protest committee, the protest bond shall be held until the commissioner is instructed by the state protest committee to either keep the bond or return it to the protester. The protester shall be notified in writing of the decision to keep the protest bond or shall be sent the protest bond by certified mail; provided, however, that the bond may only be retained if the commissioner determines that there is substantial evidence in the record to establish that the protest was brought or pursued in bad faith, or that the protest does not state on its face a valid basis for protest;
(7) A decision rendered by the state protest committee may be appealed by filing a petition for a writ of certiorari with the Chancery Court of Davidson County within sixty (60) days of the state protest committee’s final decision.

54-1-506. Debriefing on selection process.

After the protest period has expired, and the contract for pre-construction services has been awarded, the department’s procurement files shall be subject to public inspection pursuant to § 10-7-504(a)(7), and the department shall, upon request after award of the pre-construction services contract has been awarded, provide any unsuccessful proposer with a debriefing on the selection process. The debriefing shall be provided within the earliest mutually convenient time after award of the contract. The debriefing shall be limited to discussion of the strengths and weaknesses of the proposal submitted by the unsuccessful proposer and shall not include specific discussion of any other firm’s competing proposal.

54-1-508. [Repealed.]

54-4-404. Allocation and expenditure of funds — Matching funds — Bridge replacement.

(a) Funds appropriated to the state-aid highway system shall be allocated to the local agencies to be expended upon the designated highways and roads by the same formula as is set forth in § 54-4-103.

(b) No funds shall be either obligated or expended under this program unless the local agency agrees to match the proposed expenditures in an amount of twenty-five percent (25%). All of the required match or a portion of the match may be provided by in-kind contributions.

(c) A local agency may choose to transfer up to fifty percent (50%) of its funds allocated for the state-aid highway system to its state off-system bridge replacement program, in which case the matching requirements for bridge replacement projects as set forth in Acts 1982, ch. 916, § 11, Item 48, shall apply. It may choose to transfer up to that amount to participate in the federal-aid bridge replacement and rehabilitation program.

(d) If any county has an unexpended balance of funds that have accrued in the state treasury and that are available for the benefit of the county under this part, then the county may use the unexpended balance, in whole or in part, to provide a portion of the local agency share required by subsection (b); provided, that the county shall provide at least two percent (2%) of the approved project costs from county funds or in-kind project work approved by the commissioner of transportation, or both.

54-21-102. Chapter definitions.

As used in the chapter:

(1) “Adjacent area” means that area within six hundred sixty feet (660') of the nearest edge of the right-of-way of interstate and primary highways and visible from the main traveled way of the interstate or primary highways;

(2) “Changeable message sign” means an off-premise advertising device that displays a series of messages at intervals by means of digital display or mechanical rotating panels;

(3) “Commissioner” means the commissioner of transportation;
(4) “Conforming” means an outdoor advertising device that was permitted under and conforms to the zoning, size, lighting, and spacing criteria established in accordance with either the current agreement entered into between the commissioner and the secretary of transportation of the United States on or about October 18, 1984, or the original agreement entered into on or about November 11, 1971, as authorized in § 54-21-116. Any permitted outdoor advertising device that continues to conform to either the current agreement or the original agreement and conditions provided in § 54-21-116 is considered conforming;

(5) “Customary maintenance” means maintenance of a nonconforming outdoor advertising device, which may include, but shall not exceed, the replacement of the sign face and stringers in like materials, and the replacement in like materials of up to fifty percent (50%) of the device’s poles, posts or other support structures; provided, that the replacement of any poles, posts or other support structures is limited to one (1) time within a twenty-four-month period;

(6) “Destroyed” means, with respect to a nonconforming outdoor advertising device, that more than fifty percent (50%) of the device’s poles, posts or other support structures are damaged to the extent that they will no longer support the sign face;

(7) “Digital display” means a type of changeable message sign that displays a series of messages at intervals through the electronic coding of lights or light emitting diodes or any other means that does not use or require mechanical rotating panels;

(8) “Erect” means to construct, build, raise, assemble, place, affix, attach, create, paint, draw, or in any other way bring into being or establish, but does not apply to changes of copy treatment on existing outdoor advertising;

(9) “Information center” means an area or site established and maintained at a safety rest area for the purpose of informing the public of places of interest within this state and providing other information the commissioner may consider desirable;

(10) “Interstate system” means that portion of the national system of interstate and defense highways, located within this state, as officially designated, or as may hereafter be designated, by the commissioner, and approved by the secretary of transportation of the United States, pursuant to title 23 of the United States Code;

(11) “Main traveled way” means the traveled way of a highway on which through traffic is carried. In the case of a divided highway, the traveled way of each of the separated roadways for traffic in opposite directions is a main traveled way. “Main traveled way” does not include such facilities as frontage roads, turning roadways, or parking areas;

(12) “Nonconforming” means an outdoor advertising device that does not conform to the zoning, size, lighting or spacing criteria established by and in accordance with either the current agreement entered into between the commissioner and the secretary of transportation of the United States, or in accordance with the original agreement entered into on or about November 11, 1971, as authorized in § 54-21-116. Any outdoor advertising device that continues to conform to either the current agreement or the original agreement as provided in § 54-21-116 shall not be considered nonconforming;

(13) “Outdoor advertising” means any outdoor sign, display, device, bulletin, figure, painting, drawing, message, placard, poster, billboard or other
thing that is used to advertise or inform, any part of the advertising or informative contents of which is located within an adjacent area and is visible from any place on the main traveled way of the state, interstate, or primary highway systems;

(14) “Person” means and includes an individual, a partnership, an association, a corporation, or other entity;

(15) “Primary system” means that portion of connected main highways, located within this state, as officially designated, or as may hereafter be designated by the commissioner, and approved by the secretary of transportation of the United States, pursuant to title 23 of the United States Code;

(16) “Safety rest area” means an area or site established and maintained within or adjacent to the right-of-way by or under public supervision or control, for the convenience of the traveling public;

(17) “State system” means that portion of highways located within this state, as officially designated, or as may hereafter be designated by the commissioner; and

(18) “Traveled way” means the portion of a roadway for the movement of vehicles, exclusive of shoulders.

54-21-104. Permits and tags — Fees.

(a)(1) 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.

(2) If an existing outdoor advertising device was not subject to this chapter when it was erected but is subsequently made subject to this chapter by a federal law or action that adds a highway or section of a highway to the interstate or primary highway systems, such outdoor advertising device shall be required to obtain a permit and tag from the commissioner as provided in subdivision (b)(2).

(b)(1) Except as otherwise provided in subdivision (b)(2), 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) If an existing outdoor advertising device is made subject to this chapter under subdivision (a)(2), the owner or operator of the device shall obtain a permit and tag in the same manner as provided in subdivision (b)(1) except as follows:

(A) The application for the permit and tag shall be made on an application form specifically provided for this purpose;

(B) The application form shall exempt the applicant from providing:
(i) Any stake or mark on the ground showing the location of the outdoor advertising device on the real property;
(ii) A map or scaled drawing showing the property lines of the real property within which the outdoor advertising device is located, the location of the outdoor advertising device within the real property, the public roads adjacent to the real property, or the means of access to the outdoor advertising device; or
(iii) Any affidavit or other document from the real property owner verifying that the owner has granted the applicant the right to construct and operate the outdoor advertising device on the real property;

(C) The application shall be accompanied by payment of a fee of seventy dollars ($70.00) 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;

(D) After a completed application is submitted to and processed by the department of transportation in accordance with this subdivision (b)(2) and the applicable provisions of the department of transportation’s outdoor advertising regulations, the department of transportation shall issue the permit, except as otherwise provided in subdivision (b)(2)(F);

(E) No existing outdoor advertising device shall be denied a permit under this subdivision (b)(2) solely because the device does not meet the size, lighting, spacing, or zoning criteria that are required for new outdoor advertising devices under current law and regulations;

(F)(i) An application for a permit may be denied on other grounds under this subdivision (b)(2) only in accordance with current law or regulations, including as follows:
(a) The outdoor advertising device is located within or encroaches upon state highway right-of-way;
(b) There is no access to the outdoor advertising device for maintenance or operational purposes except by direct access from state highway right-of-way or across the state’s access control limits;
(c) The applicant for the permit is subject to enforcement action under § 54-21-105(c); or
(d) Issuance of the permit would violate federal law;

(ii) Before denying a permit on any of the grounds provided in subdivision (b)(2)(F)(i), the department of transportation shall notify the applicant in writing of the violation that prevents issuance of the permit. The department shall also give the applicant a reasonable amount of time to undertake such action, if any, that would cure the violation. If the applicant cures the violation, the department shall issue the permit, but if the applicant fails to cure the violation the department shall deny the permit;

(G) Any permit that is issued under this subdivision (b)(2) shall indicate whether the outdoor advertising device shall be characterized and
regulated as a conforming or nonconforming device under this chapter based upon the conditions and laws in effect on the date of the department’s field inspection. The department shall notify the applicant in writing of the reason or reasons for characterizing a device as nonconforming; and

(H) The applicant has the right to appeal the department’s decision in accordance with the department of transportation’s outdoor advertising regulations and the applicable provisions of the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(3) 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.

(4) 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.

55-1-103. “Autocycle,” “motor bicycle,” “motor vehicle,” “motorcycle,” “vehicle” and “freight motor vehicle” defined.

(a) “Autocycle” means a three-wheeled motorcycle that is equipped with safety belts, steering wheel, and nonstraddle seating, and is manufactured to comply with federal safety requirements for motorcycles.

(b) “Motor bicycle” means a motorized bicycle as defined in § 55-8-101.

(c) “Motor vehicle” means every vehicle that is self-propelled, excluding electric scooters, motorized bicycles, and every vehicle that is propelled by electric power obtained from overhead trolley wires. “Motor vehicle” means any low speed vehicle or medium speed vehicle as defined in this chapter. “Motor vehicle” means any mobile home or house trailer as defined in § 55-1-105.

(d) “Motorcycle” means every motor vehicle that has a seat or saddle for the use of the rider and designed to travel on not more than three (3) wheels in contact with the ground, including an autocycle and does not include a tractor or motorized bicycle.

(e) “Vehicle” and “freight motor vehicle” means every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices moved by human power or used exclusively upon stationary rails or tracks.

55-2-115. Coordination with original equipment manufacturers to provide notice of recall and availability of repair options — Disclosure of personal information.

(a) The commissioner is authorized to coordinate with original equipment manufacturers that have issued a major recall and have requested assistance from the department, including those manufacturers that have issued a recall related to airbags manufactured and installed in vehicles between the years 2000 and 2018, to contact, via mail or other notice method, registrants who may be affected by a major recall and to provide notice of the recall and the availability of repair options. If the commissioner elects to issue the mailings or notices contemplated in this section, the original equipment manufacturers shall bear the costs associated with such mailings or notices.

(b) The commissioner is further authorized to disclose the personal information of the owner of any vehicle affected by such a recall to original equipment manufacturers for use in contacting the owner regarding the recall, as a matter of public safety pursuant to § 55-25-107(b)(14). An original equipment manufacturer or employee of the original equipment manufacturer
who receives personal information under this subsection (b) shall not disclose such information to any person other than the person to whom it relates, except as otherwise may be authorized by law.

(c) In no event shall any action or inaction as authorized by this section be construed to impose liability of any kind on the state of Tennessee, or any agency, or employee thereof for any claims or damages related to or associated with any recall repair or failure to obtain repairs.

55-3-103. Application for certificate of title — Form and contents — Statement of dealer or bill of sale.

(a) Every owner of a vehicle, subject to registration under this title, for which no certificate of title has ever been issued by the department, shall make application to the county clerk of the county where the vehicle is to be registered, or directly to the registrar of motor vehicles in the case of either proportional or apportional registrations and state owned vehicles. The clerk or registrar of motor vehicles shall receive the application for the issuance of a certificate of title for that vehicle upon the appropriate form or forms furnished by the department without charge to the applicant. Every such application shall bear the signature of the owner written with pen and ink or captured electronically using a method approved by the commissioner; provided, however, that in the case of a licensed motor vehicle dealer only, in lieu of the signature, the application may be accompanied by a valid power of attorney executed by the owner on a form prescribed by the commissioner granting the licensed motor vehicle dealer authority to sign the application on behalf of the owner. The application shall contain:

(1) The full name, bona fide residence, including the residential street address and number or route and box number, or post office box number if the applicant has no residential street address; provided, however, that a post office box shall not be sufficient to establish an individual's bona fide residence; and the mailing address of the owner or business address of the owner if a firm, association or corporation;

(2) A description of the vehicle, including, insofar as the specified data may exist with respect to a given vehicle, the odometer reading, the make, model, type of body, the serial number of the vehicle, the engine or other number of the vehicle, and whether new or used and, if a new vehicle, the date of sale by the manufacturer or dealer to the person intending to operate the vehicle. In the event a vehicle is designed, constructed, converted, or rebuilt for the transportation of property, the application shall include a statement of its capacity in terms of maximum gross vehicle weight rating as authorized by the manufacturer of the chassis or the complete vehicle;

(3) A statement of the applicant's title and of all liens or encumbrances on the vehicle and the names and addresses of all persons having any interest in the vehicle and the nature of the interest; and

(4) Further information that may reasonably be required by the department to enable it to determine whether the owner is entitled to a certificate of title.

(b) If the department is not satisfied as to the ownership of the vehicle or that there are no undisclosed security interests in it, the department may register the vehicle, and as a condition of issuing a certificate of title, require the applicant to file a bond with the department upon the form prescribed by
the department, executed by a corporate surety company duly licensed to transact business in the state, or a personal bond with two (2) solvent personal sureties on the bond. The bond shall be in an amount equal to one and one-half (1 ½) times the value of the vehicle, as determined by the department, and conditioned to indemnify any prior owner and lienholder and any subsequent purchaser of the vehicle or person acquiring any security interest in it, and their respective successors in interest, against any expense, loss or damage, including reasonable attorney’s fees, by reason of the issuance of the certificate of title of the vehicle or on account of any defect in or undisclosed security interest upon the right, title and interest of the applicant in and to the vehicle. Any person with an interest has a right of action to recover on the bond for any breach of its conditions, but the aggregate liability of the surety to all persons shall not exceed the amount of the bond. The bond shall be returned at the end of three (3) years or prior to the three (3) years if the vehicle is no longer registered in this state and the currently valid certificate of title is surrendered to the department, unless the department has been notified of the pendency of any action to recover on the bond.

(c) When the application refers to a new vehicle purchased from a dealer, the application shall be accompanied by a statement by the dealer or a bill of sale showing any lien retained by the dealer and, in addition, a manufacturer’s certificate of origin on a form to be prescribed by the commissioner.

(d) The county clerk of the county where a vehicle is to be registered shall act as the agent of the department in receiving the application for certificate of title pursuant to this section. By receiving the application, the transfer of title and any liens noted on the title shall be deemed perfected, subject only to the action of the department in declining for good cause shown to issue the title or action of the county clerk in declining for good cause shown to note such lien on the title.

(e)(1) Notwithstanding this chapter to the contrary, a person may apply for a certificate of title to a vehicle lacking proper documentation, if the vehicle has a fair market value of three thousand dollars ($3,000) or less and the person submits a certificate of ownership signed under penalty of perjury on a form prescribed by the department. The certificate of ownership shall be accompanied by the following supporting documentation:

(A) Return receipts from certified letters with a return receipt requested sent to all known parties with a legal interest in the vehicle, requesting an assigned certificate of title or, in the event the previous owner is unknown to the applicant, evidence of notification, in a publication of general circulation in the county in which the application is being made, of the applicant’s intent to apply for title on the vehicle. The notification shall contain a description of the vehicle, including make, model, year and vehicle identification number, and a request to any and all parties holding an interest in the vehicle to contact the person in possession of the vehicle by certified mail, return receipt requested, within ten (10) business days of the date of the publication;

(B) Verification of the vehicle identification number (VIN) by a law enforcement officer or licensed dealer;

(C) A notarized bill of sale from the last registered owner or a notarized statement from the seller stating why the vehicle was not titled or registered in the seller’s name;

(D) In the absence of documentation pursuant to subdivision (e)(1)(C), a
licensed motor vehicle dealer appraisal of the value of the vehicle;

(E) Photographs of the vehicle in its prerepaired state. If prerepair photographs are unavailable, then post-repair photographs shall be submitted, along with a notarized statement from the applicant that no prerepair photographs are available and that the person was unaware that prerepair photographs would be required before the repairs were made. If no repairs were made, the statement should so state; and

(F) In the event a vehicle was purchased new and never titled and the manufacturer’s statement of origin has been lost and a duplicate of the original manufacturer’s statement of origin cannot be obtained from the manufacturer, a complete copy of the original manufacturer’s statement of origin, certified as true and exact, shall be required.

(2) Notwithstanding this chapter to the contrary, a person may apply for a certificate of title to a vehicle lacking proper documentation, if the vehicle is at least thirty (30) years old and the person submits a certificate of ownership signed under penalty of perjury on a form prescribed by the department.

(3) Upon submission of a complete certificate of ownership form with the required supporting documentation and payment of the appropriate fee, a certificate of title shall be issued and the county clerk shall issue a license plate to the applicant upon acceptance by the county clerk of the submitted documents and payment of the appropriate fees. A certificate of title issued pursuant to this subsection (e) shall not relieve the registrant of civil or criminal liability resulting from possession of the vehicle as otherwise provided by law. Issuance of a title or registration under the certification provisions is solely dependent on the applicant’s ability to provide satisfactory evidence of the applicant’s legal right of ownership and conformity to all related provisions as prescribed in § 55-2-107.

55-3-114. Issuance of certificate of title — Form and contents — Delivery — Lienors holding certificate.

(a)(1) The commissioner shall, upon receipt of an application for a certificate of title, and after determining by an examination of its records that the applicant is entitled to a certificate of title, issue the same.

(2) Except as provided by subdivision (a)(3), the several county clerks are designated deputies to perform, at their option, duties in connection with services normally performed by the department related to the issuance of titles or issuance of replacement certificates of title.

(3) The several county clerks shall perform duties in connection with services related to the notation of liens and encumbrances and the extension of mortgages on certificates of title.

(4) For each certificate of title issued by a county clerk, the department shall pay the clerk a fee of two dollars ($2.00).

(5) For each certificate of title issued by a county clerk, the department shall pay the clerk an additional fee of thirty-five cents (35¢), which funds shall be earmarked for office supplies and equipment required to perform titling and registration services. Such funds shall be preserved for these purposes and shall not revert to the county general fund at the end of a budget year if unexpended.

(6) For purposes of this subsection (a), the clerk shall be deemed to have issued the certificate of title if the clerk performed the examination of the
application for a certificate of title and entered the required data into the state computer system for the purpose of printing or electronically producing the certificate of title.

(b)(1) All certificates of title shall be numbered numerically and shall contain upon the face a description of the vehicle, including the make, model, type of body, serial number of the vehicle and the engine or other number of the vehicle and, in addition, a statement of the owner’s title and of all liens and encumbrances upon the vehicle described, whether possession is held by the owner under a contract of conditional sale or other agreement and the number of the last certificate of title issued for the same vehicle, and other information as may be determined to be necessary by the commissioner.

(2) Joint ownership of a motor vehicle by two (2) or more persons shall be indicated on the certificate of title by the use of the word “and.”

(3) The certificate of title shall contain forms for assignment of title and warranty by the owner, with space for notation of liens and encumbrances upon the vehicle at the time of transfer.

(4) All certificates of title shall include an abbreviation designating all states, that the department has knowledge of, including Tennessee, where a vehicle has been previously titled. The abbreviation shall be the standard two-letter abbreviation used in addresses by the United States postal service.

(c) The certificate of title shall be delivered to the owner in the event no lien or encumbrance appears thereon. Otherwise, the certificate of title shall be delivered to the person holding the first lien or encumbrance upon the vehicle as shown in the certificate, and shall be retained by the holder of the first lien or encumbrance until the lien or encumbrance shall be discharged, at which time a notation shall be made on the certificate of title, setting forth the fact that the lien or encumbrance has been discharged, which shall be signed by the lienor. The lienor shall then deliver the certificate of title to the owner within seven (7) business days from the owner’s request, unless the certificate of title shall show on its face one (1) or more liens or encumbrances still outstanding, in which event the certificate of title shall be delivered to the next prior lienor, either in person or by registered mail, and the lienor shall within seventy-two (72) hours notify the department of the discharge of this lien by registered mail with return receipt demanded. As used in this subsection (c), “owner” includes any person or entity who lawfully acquires a motor vehicle and pays off the outstanding lien or encumbrance on the vehicle.

(d) In the event any lien or encumbrance which is subordinate to any other outstanding lien or encumbrance is discharged or released, the holder of the sublien or encumbrance shall immediately procure the certificate of title from the lienor in whose possession it is being held for the sole purpose of discharging the lien as provided by subsection (c), and thereupon shall return the certificate of title to the person from whom it was obtained, notifying the department of the discharge of this lien, or, in the alternative, the sublienor may immediately forward to the department a release setting forth the fact that the lien or encumbrance has been discharged, which shall be signed by the lienor, and the department shall note the release of the lien upon the certificate of title when the certificate of title shall next be in the physical possession of the department.

(e) With respect to the delegation of duties and the resultant performance of services, the commissioner is authorized to compensate the county clerk at the
rates set forth in applicable statutes, upon receipt from the county clerk of confirmation of services in a form acceptable to the commissioner. The prior requirement of a written contract is eliminated.

(f)(1) The department may, in its sole discretion, contract with any business entity that maintains a fleet of two hundred (200) or more motor vehicles to allow the business entity to provide any specific service, or all services, normally performed by the department or by a county clerk relative to the titling and the registration of otherwise qualified motor vehicles within the business entity’s fleet of motor vehicles. The existence of such a contract shall not be interpreted to diminish, restrict, or limit the authority of the department to administer or enforce applicable provisions of any law with which a motor vehicle within the contracting business entity’s fleet is not in compliance. The contract shall require that the department group vehicles by county of domicile. The department shall collect and distribute to county governments and county government officials the same taxes and fees as would be applicable if the vehicles were registered in the county.

(2) Contracts with business entities entered into by the department under this subsection (f) shall set forth in detail the duties and responsibilities of each party, shall require compliance with all applicable federal and state laws, shall not contain provisions that are contrary to any federal or state statute, and shall comply with the Federal Drivers’ Privacy Protection Act (18 U.S.C. § 2721 et seq.), and the Uniform Motor Vehicle Records Disclosure Act, compiled in chapter 25 of this title.

(3) A contract entered into under the authority of this subsection (f) shall be at no cost to the department except for the cost of license plates, decals, forms and administrative costs that the department would normally incur in titling and registering motor vehicles within the business entity’s fleet were it not for such contract.

(4) A contract entered into under the authority of this subsection (f) shall, in addition to all other requirements included in the contract, require the contracting business entity to:

(A) Keep all records, inventories, copies and other related paperwork that a county clerk would be required to keep if the clerk were titling and registering motor vehicles within the contracting business entity’s fleet under chapters 1-6 of this title;

(B) Forward to the department, no later than the tenth day of each month, copies of all applications, certificates of title, certificates of registration, completed forms, or other related documents or paperwork required by the department that have been issued, completed or processed by the contracting business entity during the prior month;

(C) No later than the tenth day of each month, remit to the department all fees and other moneys related to the titling and registering of motor vehicles within the contracting business entity’s fleet during the prior month that would have been required to be collected by the department or a county clerk were it not for the contract entered into under this subsection (f); and

(D) Timely make all reports that the department requires, including all applicable reports that a county clerk would be required to make if the clerk were titling and registering motor vehicles within the contracting business entity’s fleet under chapters 1-6 of this title.

(5) A delinquency in forwarding to the department any remittance, report, application, document, form or paperwork required of the contracting entity
by law or by contract shall result in a penalty of five percent (5%) of the delinquent remittance, or the remittance associated with the delinquent report, application, document, form or paperwork, as the case may be, for each thirty (30) days or fraction of the thirty (30) days that the delinquency continues; provided, however, that the penalty may be waived by the commissioner upon the showing of good and reasonable cause. In no case shall the penalty provided for in this subdivision (f)(5) exceed twenty-five percent (25%) of the remittance base.

(6) If the department enters into a contract with a business entity under this subsection (f) and the business entity fails to strictly comply with any requirement or provision of the contract, the contract may be rescinded in its entirety and canceled at the discretion of the commissioner; provided, however, that the effective date of the cancellation shall be thirty (30) business days after the date the department gives notice by certified mail to the contracting business entity that the contract is being rescinded and canceled.

55-3-123. Liens to be noted on certificates of title — County clerk entering lien.

(a) When any new lien, other than a lien dependent solely upon possession, or a lien of the state for taxes established pursuant to title 67, chapter 1, part 14, is placed on any motor vehicle coming within the title provisions of chapters 1-6 of this title in a transaction not involving any change of ownership, the owner shall deliver the certificate of title, if in the owner's possession, on to the lienor, who shall forward the certificate of title, together with the required fee for noting the lien on the certificate of title, with proof of the lien required by the reasonable rules and regulations of the commissioner directly to the county clerk. The county clerk, when satisfied of the lienor's right to have the lien noted on the certificate of title, shall note the lien on the certificate of title and return the certificate of title to the lienor.

(b) In the event the certificate of title is in the possession of some prior lienor, the new or subordinate lienor shall forward to the county clerk the required fee for noting the lien, together with proof of the lien required by the reasonable rules and regulations of the commissioner, and the county clerk, when satisfied of the right of the lienor to have the lien noted on the certificate of title, shall forward the application and proof of lien to the department. The department shall procure the certificate of title from the lienor in whose possession it is being held, for the sole purpose of noting the new lien on the certificate of title, and shall return the certificate of title to the lienor from whom it was obtained and shall further notify the new lienor of the fact that the lien has been noted on the certificate of title.

55-3-124. Assignment by person holding lien — Notation of lien — Fee.

(a) Any person holding a lien or encumbrance upon a vehicle, other than a lien dependent solely upon possession, may assign title or interest in and to the motor vehicle to a person other than the owner, without the consent and without affecting the interest of the owner, of the registration of the vehicle, but, in this event, shall give to the owner a written notice of the assignment, and deliver to the assignee an assignment of the lien, which assignment shall be signed by the assignor and, if the original certificate of title be in the
assignor’s possession, it shall likewise be delivered to the assignee, who shall forward the assignment, together with the certificate of title and proper fee for the notation of a lien to the county clerk, which shall note the new lien on the certificate of title in the place and stead of the lien shown in favor of the assignor and return the same to the assignee; provided, that if the original certificate of title is not in the possession of the assignor, the assignee shall forward the assignment, together with the fee for noting a lien on the certificate of title, to the county clerk, which shall procure the certificate of title from the person in whose possession it is being held for the sole purpose of noting the new lien in the place and stead of the lien in favor of the assignor, and the county clerk shall then return the certificate of title to the person from whom it was obtained and shall further notify the assignee of this lien that the lien has been noted on the certificate of title.

(b) The assignee of any lien shall be entitled to the same priority among the outstanding lienors and have all the other property rights as had formerly been held by the assignor.

(c)(1)(A) Notwithstanding this section to the contrary, the assignor in a multiple vehicle lien assignment may assign the security interest or lien on the related motor vehicles to a person other than the owner, without the consent and without affecting the interest of the owner.

(B) Subsection (a) shall not apply to a multiple vehicle lien assignment.

(C) The assignee in a multiple vehicle lien assignment may, but need not in order to perfect the assignment or continue the perfected status of the assigned security interest or lien against creditors of and transferees from the owner, have the certificate of title endorsed or issued with the assignee named as holder of a security interest or lien upon delivering to the county clerk the certificate and assignment by the holder of a security interest or lien named in the certificate in the form the county clerk prescribes.

(D) If the assignment refers to a security interest or lien that is reflected on the certificate of title and the certificate of title is in the possession of the first security interest holder or lienholder as provided by this chapter, the assignee may, but need not in order to perfect the assignment or continue the perfected status of the assigned security interest or lien against creditors of and transferees from the owner, have the certificate of title endorsed by complying with § 55-3-123. However, any person without notice of the assignment shall be protected in dealing with the assignor, and the assignor shall remain liable for any obligations as holder of the security interest or lien until the assignee is named as the holder of the security interest or lien on the certificate of title.

(2) For purposes of subdivision (c)(1), unless the context otherwise requires, “multiple vehicle lien assignment” means any transaction, or series of related transactions, in which security interests or liens are assigned on more than fifty (50) motor vehicles, whether or not any or all of the motor vehicles are owned by or registered to residents of the state or covered by certificates of title issued by the state.
55-3-126. Constructive notice of lien upon filing request for notation — Method of giving notice — Perfection of security interest.

(a) Except as provided for manufactured homes complying with the requirements of § 55-3-128, a lien or security interest in a vehicle of the type for which a certificate is required shall be perfected and shall be valid against subsequent creditors of the owner, subsequent transferees, and the holders of security interest and liens on the vehicle by compliance with this chapter.

(b)(1) A security interest or lien is perfected by delivery to the department or the county clerk of the existing certificate of title, if any, title extension form, or manufacturer’s statement of origin and an application for a certificate of title containing the name and address of the holder of a security interest or lien with vehicle description and the required fee.

(2) The security interest is perfected as of the date of delivery to the county clerk or the department.

(3)(A) Notwithstanding any other law to the contrary, a second or other junior security interest or lien in a vehicle of the type for which a certificate of title is required shall not be considered perfected unless and until the lien or security interest is physically noted on the certificate of title for the vehicle. In the case of a second or other junior lien or security interest, there shall be no constructive notice of the second or other junior lien or security interest unless that lien is physically noted on the certificate of title.

(B) Nothing in subdivision (b)(3)(A) shall have any effect on perfection and constructive notice concerning first liens.

(c) When the security interest is perfected as provided for in this section, it shall constitute notice of all liens and encumbrances against the vehicle described in the security interest to creditors of the owner, to subsequent purchasers and encumbrances, except liens as may be authorized by law dependent upon possession. Constructive notice shall date from the time of first delivery of the request for the notation of the lien or encumbrance upon the certificate of title by the county clerk, as shown by its endorsements of the date of delivery on the document.

(d) The method provided in this section and § 55-3-125 of obtaining a lien or encumbrance upon a motor vehicle, mobile home, house trailer or other mobile structure, whether or not taxed as real property, subject to chapters 1-6 of this title relative to the issuance of certificates of title, shall be exclusive except as to liens depending upon possession and the lien of the state for taxes established pursuant to title 67, chapter 1, part 14; provided, that §§ 66-24-101, 66-26-101, 66-26-105 and 66-26-110, or any other sections, shall not be construed to require the deposit, filing or other record whatsoever of a chattel mortgage, deed of trust conveyance intended to operate as a mortgage, trust receipt, or other similar instrument. It is the intent of this section that any mortgage, trust receipt or other similar instrument of indebtedness required by chapters 1-6 of this title shall be perfected by delivery and then noted upon the certificate of title only, and shall not be required to be made a public record elsewhere, except as expressly provided otherwise in § 47-9-311(d).

(e) With respect to implements of husbandry and special mobile equipment, the perfection of a security interest under chapters 1-6 of this title is not effective until the lienholder has complied with the provisions of applicable law.
that otherwise relate to the perfection of security interest in personal property, and any person who receives transfer of an interest in this equipment without knowledge of the certificate is not prejudiced by reason of its existence.

(f)(1) When a manufacturer’s statement of origin or an existing certificate of title on a motor vehicle is unavailable, a first lienholder or the first lienholder’s designee may file an application for motor vehicle temporary lien with the secretary of state. The filing fee for each application for motor vehicle temporary lien is ten dollars ($10.00). The filing of an application for motor vehicle temporary lien shall constitute constructive notice of the lien against the motor vehicle as described to creditors of the owner, subsequent purchasers and encumbrancers, except liens as are by law dependent upon possession.

(2) The constructive notice shall be effective from the time of the filing of the application for motor vehicle temporary lien as authorized in this subsection (f); provided, that the filing of a lien under this section by the lienholder and the payment of the fee shall in no way relieve any person of the obligation of paying the fee now required by law for filing a lien to be evidenced on a certificate of title of a motor vehicle.

(3) A lien filed under this subsection (f) shall automatically terminate after one hundred eighty (180) days or upon being perfected under other provisions of this section, whichever occurs first.

(4) Whenever a lienholder or the lienholder’s designee files a lien under this subsection (f) and later under other provisions of this subsection (f), the lien shall be presumed to be perfected at the time of the earliest filing.

(5) The application for motor vehicle temporary lien shall be accompanied by the required filing fee, shall be on a form designed by the secretary of state, and shall contain the following information:

(A) Name and address of each debtor;
(B) Name and address of the first lienholder;
(C) Vehicle identification number of the motor vehicle;
(D) The date the instrument creating the lien was executed;
(E) The name, address and telephone number of the submitter;
(F) The name and address to whom acknowledgement of filing should be sent if other than the submitter; and
(G) Any other information that the secretary of state deems necessary for the administration of this part.

(6) Upon request of any person, the secretary of state may issue a certificate showing whether there is on file, on the date stated therein, any presently effective liens naming a particular debtor, giving the date and hour of filing of each effective lien, and the vehicle identification number and the name of the lienholder. The fee for this certificate shall be ten dollars ($10.00). Upon request, the secretary of state shall furnish a copy of any filed lien for a uniform fee of one dollar ($1.00) per page.

(7) The secretary of state has the power reasonably necessary to perform the duties required of the secretary of state by this subsection (f), including, without limitation, the power to promulgate necessary and appropriate rules and regulations consistent with this subsection (f), and the power to destroy any documents filed under this subsection (f) two hundred seventy (270) days after the filing of the documents.

(8) Notwithstanding any law to the contrary, the fees collected by the secretary of state under this subsection (f) shall be retained by the secretary of state to offset costs associated with the administration and continued
improvement of the secretary of state’s recordkeeping functions.

(9) The lienholder listed on an application for motor vehicle temporary lien may correct the application filed with the secretary of state if the application contains an incorrect statement by filing articles of correction. The application shall be corrected in a manner established by the secretary of state and on a form designed by the secretary of state. The articles of correction shall provide the registration number of the application to be corrected. The filing fee to file articles of correction shall be ten dollars ($10.00). The articles of correction are effective on the effective time and date of the application they correct except as to persons relying on the uncorrected application and adversely affected by the correction. As to those persons, the effective date is the date the articles of correction are filed.

(10) In addition to the fees authorized in this subsection (f), the secretary of state is authorized to charge an online transaction fee to cover costs associated with processing payments for an application for motor vehicle temporary lien, articles of correction, and certificate requests submitted online.

(11) An application for motor vehicle temporary lien and articles of correction shall be rejected if they contain information that the secretary of state is unable to read or decipher.

(g) The comptroller of the treasury shall, as part of the review and/or audit of the office of the secretary of state, include the implementation and impact of subsection (f) and shall report its findings and recommendations regarding subsection (f) in such review and/or audit of the office of secretary of state.

55-4-105. Renewal certificates and registration plates — Application — Mail order service — Issuance — Replacement of lost registrations — Locations for obtaining renewal.

(a)(1) Application for renewal certificates of registration and registration plates shall be made by the owner by the surrender of the owner’s old certificate of registration or other indicia thereof as the commissioner may authorize to the vehicle and the payment of the required fee for renewal registration.

(2) The office of county clerk may make inquiry into an owner, including, but not limited to, review of driver records for the purpose of establishing an owner’s residence or address, before issuing a renewal of registration or a tab, sticker or other device as a prerequisite to payment of wheel or road taxes. Upon request of the office of the county clerk, the department shall provide a current list of the names, drivers’ license numbers and addresses of drivers from the requesting county.

(3)(A) Any applicant who applies for registration who was a resident of the county in the previous year or years and was liable for and failed to pay the applicable wheel tax shall, for such year or years, be liable for and pay all prior years’ wheel taxes prior to being issued such registration. This subdivision (a)(3)(A) shall not apply to licensed motor vehicle dealers, financial institutions or businesses and applicants engaged in the rental of motor vehicles, trucks and trailers for periods of thirty-one (31) days or less.

(B) This subdivision (a)(3) shall only apply in 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.

(b) The registrar of motor vehicles, or deputy as provided by law, may receive applications for renewal certificates of registration and registration plates and issue the certificates and plates commencing on March 1 of each year.

(c) Each county clerk shall provide a mail order service for the renewal of registrations whereby registrants may apply for and receive the renewal certificates and plates or decals through the United States postal service. Except as otherwise required by law, an application for renewal by mail must be postmarked not later than twenty (20) days before the license expiration date to allow time for processing. Each county clerk may impose a fee of two dollars ($2.00) for the service of handling mail orders of plates and decals; provided, that the amount of such fee for the service of handling mail orders of plates is three dollars ($3.00) between July 1, 2014, and June 30, 2019, and four dollars ($4.00) on or after July 1, 2019.

(d) In the event a plate or decal is lost after issuance and mailing, and before delivery to the registrant, the county clerk shall, as agent for the state, process a replacement registration at no charge upon application and affidavit from the registrant. The county clerk shall verify the registration and date of mailing.

(e)(1) The holder of a valid and outstanding certificate of registration for a noncommercial vehicle shall apply for its renewal through the office of the clerk of the county of the owner’s residence. The registration issued for a commercial vehicle may be renewed through the office of the clerk of the county of the owner’s principal place of business within the state, or of the county of incorporation in the case of a corporate owner or of any other county in which the owner or corporate owner maintains an office or place of business. Any applicant for the renewal of a registration under which the fee is to be prorated or apportioned and any nonresident applicant for renewal shall, within the discretion of the commissioner, make application directly to the division.

(2) For the purposes of this subsection (e), “commercial vehicle” means any vehicle that is operated in the furtherance of any commercial enterprise; provided, that vehicles registered with Tennessee Association of Realtors new specialty earmarked license plates shall be deemed not to be commercial vehicles.

(3)(A) A violation of subdivision (e)(1) for the renewal of a motor vehicle license in certain locations is a Class C misdemeanor.

(B) If a county wheel tax or like local fee is due and owing to local government for the use of the vehicle, the owner or operator shall, upon conviction, be punished in accordance with a Class B misdemeanor and subject to the fine only.

(C) In instances of violations in which it is found that the wheel tax or local fee has been paid or is not due, the court may, in the event of a conviction, substitute, in lieu of the punishment set forth in subdivision (e)(3)(B), a fine of not less than five dollars ($5.00) nor more than ten dollars ($10.00).

(f) Notwithstanding any law to the contrary, the office of county clerk shall not be required to review the driving record of any owner before issuing a certificate of registration or a tab, sticker or other device as a prerequisite to payment of wheel or road taxes.

(g)(1) If a person makes an application for a renewal certificate of registration or registration plate pursuant to this section and at the time of
application owes any motor vehicle registration fee to the office of the county clerk, then the clerk may deny the application until the person makes full payment on such fee amount.

(2) In addition to the fee amount described in subdivision (g)(1), the clerk may charge the person a clerk's fee, which shall be equal to ten percent (10%) of the fee amount described in subdivision (g)(1); provided, that eighty percent (80%) of such clerk's fee may be retained by the county and the remaining twenty percent (20%) of such clerk's fee shall be forwarded by the clerk to the department.

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) As used in this subsection (d), “historic military vehicle” means a vehicle, including a trailer, that is at least twenty-five (25) years old at the time of making application for registration, was manufactured for use in any country’s military forces, and is maintained to represent the vehicle’s military design and markings, regardless of the vehicle’s size or weight.

(2) An owner or operator of a historic military vehicle is not required to display the vehicle’s registration plate on the vehicle in accordance with this section. In lieu of such display, the owner or operator shall maintain the vehicle’s registration plate in the vehicle and produce the plate for inspection upon the request of any law enforcement officer.

(e)(1) A violation of this section is a Class C misdemeanor. All proceeds from the fines imposed by this subsection (e) shall be deposited in the state general fund.

(2) A person charged with a violation of this section may, in lieu of appearance in court, submit a fine of ten dollars ($10.00) for a first violation,
and twenty dollars ($20.00) on second and subsequent violations to the clerk of the court that has jurisdiction of the offense within the county in which the offense charged is alleged to have been committed.

(3) If the violation of this section results solely from the failure to illuminate the registration plate at all times headlights are required to be displayed, the fine set out in this subsection (e) shall be the only amount the person is assessed. No litigation tax levied pursuant to title 67, chapter 4, part 6 shall be imposed or assessed against anyone convicted of a violation of this section nor shall any clerk's fee or court costs, including, but not limited to, any statutory fees of officers, be imposed or assessed against anyone convicted of a violation of this section. Further, the lighting violation described in this subdivision (e)(3) shall be considered a nonmoving traffic violation and no points shall be added to a driver's record for such violation.

55-4-141. Authority of department of revenue to issue, suspend, or revoke a registration, permit, plate, or certificate of certain motor carriers.

(a)(1) The department or its agent is authorized to refuse to issue or transfer a registration, license plate, permit, or a certificate of title on a vehicle that has been assigned to a motor carrier that has been prohibited from operating by the federal motor carrier safety administration; provided, that the department or its agent may allow a motor carrier that has been prohibited from operating by the federal motor carrier safety administration to transfer a title if the motor carrier does not retain an interest, either directly or indirectly, in the vehicle.

(2) The department or its agent is authorized to suspend or revoke the registration, license plate, permit, or certificate of title issued to any vehicle assigned to a motor carrier that has been prohibited from operating by the federal motor carrier safety administration.

(b) The department shall deny registration for a vehicle assigned to a motor carrier that has been prohibited from operating by the federal motor carrier safety administration for safety reasons or a carrier whose business is operated, managed, or otherwise controlled by or affiliated with a person who is ineligible for registration, including an applicant, owner, corporate officer, or shareholder of the carrier or a relative of any such persons. For purposes of this section, “relative” means husband, wife, son, daughter, brother, sister, father, mother, brother-in-law, sister-in-law, father-in-law, mother-in-law, son-in-law, or daughter-in-law.

(c) If a prohibition from operating by the federal motor carrier safety administration is rescinded, the department or its agent may issue a registration, license plate, permit, or certificate of title to the motor carrier; provided, that all other taxes and fees have been paid to the department.

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) Antique Auto (unrestricted use);
(B) Arts, as provided for in § 55-4-217 and § 55-4-240;
(C) Collegiate, as defined in § 55-4-201:
   (i) Bryan College;
   (ii) Cumberland University [Obsolete. See Compiler’s Notes.];
   (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;
(D) Honorary consular;
(E) Metropolitan council;
(F) 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) Legion of Merit recipients;
(ix) Marine Corps League;
(x) Paratrooper;
(xi) Pearl Harbor survivors;
(xii) Rakkasans;
(xiii) Submarine veteran;
(xiv) Tennessee woman veteran, pursuant to § 55-4-267;
(xv) United States military, active forces, pursuant to § 55-4-252;
(xvi) United States military, honorably discharged members, pursuant to § 55-4-252;
(xvii) United States military, retired forces, pursuant to § 55-4-252;
(xviii) United States reserve forces, pursuant to § 55-4-254;
(xix) United States reserve forces, honorably discharged members, pursuant to § 55-4-252;
(xx) United States reserve forces, retired, pursuant to § 55-4-252; and
(xxi) Women Veterans of Color;
(G) Personalized, pursuant to §§ 55-4-210 and 55-4-214;
(H) Police Benevolent Association; and
(I) Retired female firefighter;
(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) AMVETS;
(D) Animal Friendly;
(E) Appalachian Trail;
(F) Autism Awareness;
(G) Baylor School [Obsolete. See the Compiler’s Notes.];
(H) BE NICE [Obsolete. See Compiler’s Notes.];
(I) Blood Donor;
(J) Boone Lake Association [Obsolete. See Compiler’s Notes.];
(K) Boy Scouts of America [Obsolete. See the Compiler’s Notes.];
(L) Chattanooga Football Club [Obsolete. See the Compiler’s Notes.];
(M) Childhood Cancer Awareness [Obsolete. See the Compiler’s Notes.];
(N) Childhood Hunger Awareness [Obsolete. See the Compiler’s Notes.];
(O) Children’s Hospital at Erlanger;
(P) Choose Life;
(Q) Civil War Preservation;
(R) Combat Action [Obsolete. See Compiler’s Notes.];
(S) Cystic Fibrosis Awareness [Obsolete. See the Compiler’s Notes.];
(T) D.A.R.E. [Obsolete. See Compiler’s Notes.];
(U) Diabetes Awareness [Obsolete. See the Compiler’s Notes.];
(V) Dollywood Foundation;
(W) Domestic Violence and Sexual Assault Awareness [Obsolete. See
Compiler’s Notes.];
(X) Down Syndrome Awareness;
(Y) “Driving To A Cure” (Pink Ribbon);
(Z) Eagle Foundation;
(AA) East Tennessee Children’s Hospital;
(BB) Eastern Star [Obsolete. See Compiler’s Notes.];
(CC) Fallen Linemen [Obsolete. See Compiler’s Notes.];
(DD) Fallen Police and Firefighters [Obsolete. See Compiler’s Notes.];
(EE) Fighting for At-Risk Youth;
(FF) Fish and wildlife species;
(GG) Fraternal Order of Police;
(HH) Friends of Shelby Park and Bottoms;
(II) Friends of Sycamore Shoals Historic Area, Inc.;
(JJ) Germantown Charity Horse Show;
(KK) Greene County School System;
(LL) Historic Collierville [Obsolete. See the Compiler’s Notes.];
(MM) Historic Franklin;
(NN) Historic Maury [Obsolete. See Compiler’s Notes.];
(OO) Historic Whitehaven [Obsolete. See the Compiler’s Notes.];
(PP) I Stand with Israel [Obsolete. See Compiler’s Notes.];
(QQ) In Remembrance [Obsolete. See the Compiler’s Notes.];
(RR) International Association of Firefighters;
(SS) Jackson State University;
(TT) Justin P. Wilson Cumberland Trail State Scenic Trail State Park
[Obsolete. See the Compiler’s Notes.];
(UU) Juvenile Diabetes Research Foundation (JDRF);
(VV) Kiwanis International [Obsolete. See Compiler's Notes.];
(WW) Knights of Columbus;
(xx) Le Bonheur Children’s Medical Center;
(yy) Linemen Power Tennessee;
(zz) Louisiana State University [Obsolete. See Compiler’s Notes.];
(AAA) Lung Cancer Awareness [Obsolete. See Compiler’s Notes.];
(BBB) Make-A-Wish Foundation [Obsolete. See Compiler’s Notes.];
(CCC) Martin Luther King, Jr.;
(DDD) Masons;
(EEE) Memphis Grizzlies;
(FFF) Memphis Rock ‘n’ Soul Museum;
(GGG) Methodist Le Bonheur Healthcare;
(HHH) Monroe Carell Jr. Children’s Hospital at Vanderbilt;
(III) Mothers Against Drunk Driving (MADD) [Obsolete. See Compiler's
Notes.;

(JJJ) Mountain Tough [Obsolete. See Compiler's Notes.];
(KKK) Nashville Parks Foundation [Obsolete. See Compiler's Notes.];
(LLL) Nashville Predators;
(MMM) National Rifle Association;
(NNN) National Wild Turkey Federation;
(OOO) Niswonger Children’s Hospital;
(PPP) North Carolina State University [Obsolete. See Compiler's Notes.];
(QQQ) Nurses;
(RRR) Ohio State University [Obsolete. See Compiler's Notes.];
(SSS) Order of The Eastern Star;
(TTT) Pat Summitt Foundation;
(UUU) Police Activities League [Obsolete. See the Compiler’s Notes.];
(VVV) Prostate Cancer Awareness [Obsolete. See Compiler’s Notes.];
(WWW) Protecting Rivers and Clean Waters;
(XXX) Radnor Lake;
(YYY) Regional Medical Center at Memphis (The MED);
(ZZZ) Rotary International [Obsolete. See Compiler's Notes.];
(AAAA) Save the Bees;
(BBBB) Service Dogs;
(CCCC) Share the Road;
(DDDD) Smallmouth bass;
(EEEE) Sons of Confederate Veterans;
(FFFF) Sportsman;
(GGGG) Strictly Vettes [Obsolete. See the Compiler’s Notes.];
(HHHH) Suicide Prevention [Obsolete. See Compiler's Notes.];
(III) Support Our Troops;
(JJJJ) Tennessee Association of Realtors;
(KKKK) Tennis Memphis;
(LLLL) Tennessee School Nutrition Association [Obsolete. See Compiler's Notes.];
(MMMM) Tennessee Sheriffs’ Association;
(NNNNN) Tennessee Tech University [Obsolete. See Compiler's Notes.];
(OOOO) Tennessee Titans;
(PPPP) Tennessee Voices for Victims;
(QQQQ) Tennessee Walking Horse;
(RRRR) Tennessee Wildlife Federation;
(SSSS) Tennessee Wildlife Federation nongame and education programs;
(TTTT) The Center for Living and Learning, Inc.;
(UUUU) The Fairgrounds Nashville [Obsolete. See Compiler's Notes.];
(VVVV) TN Back the Blue [Obsolete. See Compiler's Notes.];
(WWW) Trout Unlimited;
(XXXX) University of South Carolina [Obsolete. See Compiler's Notes.];
(YYYY) University of Tennessee Health Science Center;
(ZZZZ) University of Tennessee Lady Volunteers’ NCAA National Championships;
(AAAAA) University of Tennessee National Championship;
(BBBBB) VFW [Obsolete. See Compiler's Notes.];
(CCCCC) Whitehaven High School;
(ddddd) 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 — thirty dollars ($30.00), 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) Legion of Merit recipients;
(I) Marine Corps League;
(J) Paratrooper;
(K) Pearl Harbor survivors, pursuant to § 55-4-262;
(L) Rakkasans;
(M) Submarine veteran;
(N) Tennessee woman veteran, pursuant to § 55-4-267;
(O) United States military, active forces, pursuant to § 55-4-252;
(P) United States military, honorably discharged members, pursuant to § 55-4-252;
(Q) United States military, retired, pursuant to § 55-4-252;
(R) United States reserve forces, honorably discharged members, pursuant to § 55-4-252;
(S) United States reserve forces, pursuant to § 55-4-254;
(T) United States reserve forces, retired, pursuant to § 55-4-252; and
(U) Women Veterans of Color.

(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.

55-4-209. Disabled drivers. [Effective on July 1, 2020. See the version effective until July 1, 2020.]

(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 must bear the stylized wheelchair symbol or symbol of access in accordance with § 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.

55-4-214. 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)(F);
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).

(e) Notwithstanding subdivisions (c)(8) and (c)(10), memorial plates, as enumerated in § 55-4-203(c)(4) and defined in § 55-4-250, and military plates, as enumerated in § 55-4-203(c)(5)(F), are eligible for personalization pursuant to this section. In addition to any other fees required by this section or by this part for the issuance of such plates, an applicant for the personalization of memorial or military plates shall pay a fee equal to the cost of actually designing and manufacturing the personalized plates. Nothing in this subsection (e) authorizes the removal or other redesign of any distinctive identification legend or letters required to be included on memorial or military plates.
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 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 discharged 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 strip along the bottom of the license plate shall read “Bosnia Veteran,” and the symbol on the left shall be the American flag. 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 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
(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.

(13)(A) For honorably discharged veterans of the peacekeeping mission in Somalia occurring between December 5, 1992 and March 3, 1994, 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 to obtain this plate.

(B) For honorably discharged veterans who served during the time that the peacekeeping mission in Somalia occurred but who do not qualify for issuance of the Somalia 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 “Somalia Era Veteran”. Nothing in this subdivision (c)(13)(B) prohibits any veteran who served during the peacekeeping mission in Somalia from requesting issuance of the honorably discharged veteran plate that is authorized by subsection (a).

(14) For honorably discharged veterans and active members of the United States armed forces who served in South Korea after the signing of the Korean Armistice Agreement in support of the defense of the South Korean state and who qualify for the Korea Defense Service Medal, the strip along the bottom of the license plate shall read “Korean Defense Service”, and the plate shall include an identification legend distinctive to recipients of the Korea Defense Service Medal. The commissioner of veterans services shall set proof of service requirements for eligible veterans and military service members to obtain the plate.

(15)(A) For honorably discharged veterans of Operation Inherent Resolve and active members of the United States armed forces who served in Operation Inherent Resolve, the strip along the bottom of the license plate shall read “Operation Inherent Resolve” 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 Inherent Resolve to obtain the plate.

(B) For honorably discharged veterans who served during Operation Inherent Resolve but who do not qualify for issuance of the Operation Inherent Resolve 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 Inherent Resolve Era”. Nothing in this subdivision (c)(15)(B) prohibits any veteran who served during Operation Inherent Resolve from requesting issuance of the honorably discharged veteran plate that is authorized by subsection (a).

(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.

55-4-259. 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 — Valor.” 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.

55-4-275. Legion of Merit.

(a) A recipient of the Legion of Merit 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 Legion of Merit motor vehicle registration plate, as appropriate, for a motor vehicle authorized by § 55-4-210(c).

(b) The Legion of Merit plates provided for in this section shall include an identification legend distinctive to recipients of the Legion of Merit, and the legend shall read “Legion of Merit”.

(c) Eligibility for Legion of Merit plates shall be determined by the department by consulting the appropriate information on the applicant’s certificate of release or discharge from active duty, department of defense form 214 (DD
214), 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 Legion of Merit, as appropriate.

55-4-276. Women Veterans of Color.

(a) A distinctive license plate is authorized for any woman of color who is a veteran, if the woman of color is currently a resident of this state and is otherwise qualified to register and license a motor vehicle pursuant to this title. As used in this section, “woman of color” means a female who is African American, Hispanic, Asian American, American Indian, Alaska Native, or Middle Eastern American.

(b) The registration plates shall bear the legend “Women Veterans of Color”.

(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 of color who received an honorable discharge as a member of the armed services, as defined in § 49-4-928.

55-4-277 — 55-4-289. [Reserved.]

55-4-313. Friends of Shelby Park and Bottoms.

(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 Shelby Park and Bottoms 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 Shelby Park and Bottoms and East Nashville and bear the language “East Nashville” at the bottom of the plate. The plates shall be designed in consultation with a representative of the Friends of Shelby Park and Bottoms, Inc.

(c) The funds produced from the sale of Friends of Shelby Park and Bottoms new specialty earmarked license plates shall be allocated to the Friends of Shelby Park and Bottoms, Inc., in accordance with § 55-4-301. The funds shall be used exclusively to support the organization’s efforts to maintain park features, promote educational programs, support recreational activities, engage visitors, and undertake revitalization efforts within the urban park system.

55-4-319. Service Dogs.

(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 Service Dogs 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 of Smoky Mountain Service Dogs.

(c) The funds produced from the sale of Service Dogs new specialty earmarked license plates shall be allocated to Smoky Mountain Service Dogs in accordance with § 55-4-301. The funds shall be used exclusively to support the organization’s mission to enhance the physical and psychological quality of life for wounded veterans by providing trained service dogs to disabled veterans.

55-4-320. Knights of Columbus.

(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 Knights of Columbus 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 Knights of Columbus. The plates shall be designed in consultation with a representative of the Tennessee State Council of the Knights of Columbus.

(c) The funds produced from the sale of Knights of Columbus new specialty earmarked license plates shall be allocated to the Tennessee State Council of the Knights of Columbus in accordance with § 55-4-301. The funds shall be used to assist the organization in carrying out its mission of service to the community.

55-4-328. Order of The Eastern Star.

(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 Order of The Eastern Star 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 of the Order of The Eastern Star.

(c) The funds produced from the sale of Order of The Eastern Star new specialty earmarked license plates shall be allocated to the Order of The Eastern Star, in accordance with § 55-4-301. The funds shall be used exclusively to support the organization’s charitable and community activities for wives, widows, and orphans of Middle Tennessee.

55-4-331. Germantown Charity Horse Show.

(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 Germantown Charity Horse Show 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 of the Germantown Charity Horse Show. Such new specialty earmarked license plates shall contain the logo or other appropriate design representative of the Germantown Charity Horse Show.

(c) The funds produced from the sale of the Germantown Charity Horse Show new specialty earmarked license plates shall be allocated to the Germantown Charity Horse Show, in accordance with § 55-4-301. The funds shall be used to support the various community and charitable activities of the Germantown Charity Horse Show.

55-4-332. Greene County School System.

(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 Greene County School System 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 Greene County School System. The plates shall be designed in consultation with a representative of the Greene LEAF Education Foundation.

(c) The funds produced from the sale of Greene County School System new specialty earmarked license plates shall be allocated to the Greene LEAF Education Foundation in accordance with § 55-4-301. The funds shall be used exclusively to support the organization’s mission to serve as an advocate for creating a premier educational environment for the students of Greene County, Tennessee, by providing needed resources for students and educators.

55-4-333. Whitehaven High School.

(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 Whitehaven High School 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 Whitehaven High School. The plates shall be designed in consultation with a representative of the Whitehaven Empowerment Foundation.

(c) The funds produced from the sale of Whitehaven High School new specialty earmarked license plates shall be allocated to the Whitehaven Empowerment Foundation in accordance with § 55-4-301. The funds shall be used exclusively to support the organization’s mission to serve as an advocate for creating a premier educational environment by providing needed resources for students and educators at Whitehaven High School and other schools in the Whitehaven Empowerment Zone.
55-4-337. Antique Auto.

(a) An owner or lessee of an antique 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 Antique Auto cultural license plate for a motor vehicle authorized by § 55-4-210(c).

(b) The Antique Auto cultural license plates provided for in this section shall be of an appropriate design visually distinct from the antique motor vehicle plate issued pursuant to § 55-4-111, and are subject to renewal in accordance with this chapter.

(c) An antique motor vehicle registered in accordance with this section is not subject to the restrictions on use described in § 55-4-111(b)(1).

(d) For the purpose of this section, “antique motor vehicle” means a motor vehicle over twenty-five (25) years old with a nonmodified engine and body.

55-4-340. [Obsolete.]
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, 2020, to meet the applicable minimum issuance requirements of § 55-4-202(h)(1).

55-4-356. AMVETS.

(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 AMVETS 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 National AMVETS (American Veterans) organizations, and shall bear the language “Veterans Serving Veterans” along the bottom of the plate. The plates shall be designed in consultation with the members of the AMVETS Department of Tennessee.

(c) The funds produced from the sale of AMVETS new specialty earmarked license plates shall be allocated to the AMVETS Department of Tennessee Service Foundation, Inc., in accordance with § 55-4-301. The funds shall be used exclusively to provide donations to veterans homes in this state through the AMVETS Department of Tennessee Service Foundation, Inc.
55-4-357. Blood Donor.

(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 Blood Donor 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 blood donations. The plates shall be designed in consultation with a representative of West Tennessee Regional Blood Center, Inc., doing business as LIFELINE Blood Services.

(c) The funds produced from the sale of Blood Donor new specialty earmarked license plates shall be allocated to the West Tennessee Regional Blood Center, Inc., in accordance with § 55-4-301. The funds shall be used exclusively in this state to support the organization’s mission to provide safe blood products in Tennessee communities.

55-4-358. Fighting for At-Risk Youth.

(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 Fighting for At-Risk Youth 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 Children’s Home. The plates shall be designed in consultation with a representative of the Tennessee Children’s Home.

(c) The funds produced from the sale of Fighting for At-Risk Youth new specialty earmarked license plates shall be allocated to the Tennessee Children’s Home in accordance with § 55-4-301. The funds shall be used exclusively for general operating expenses for the four (4) campuses of the Tennessee Children’s Home.

55-4-359. Tennessee Voices for Victims.

(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 Voices for Victims 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 Tennessee Voices for Victims. The plates shall be designed in consultation with a representative of Tennessee Voices for Victims.

(c) The funds produced from the sale of Tennessee Voices for Victims new specialty earmarked license plates shall be allocated to Tennessee Voices for Victims in accordance with § 55-4-301. The funds shall be used to support the organization’s efforts in assisting victims of crime and preventing victimization.
55-4-360. [Obsolete.]

55-4-361. Linemen Power Tennessee.

(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 Linemen Power Tennessee 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 Tennessee Lineworker Lifeline Fund. The plates shall be designed in consultation with a representative of the Tennessee Lineworker Lifeline Fund.

(c) The funds produced from the sale of Linemen Power Tennessee new specialty earmarked license plates shall be allocated to the Tennessee Lineworker Lifeline Fund in accordance with § 55-4-301. The funds shall be used in furtherance of the Tennessee Lineworker Lifeline Fund's activities in this state.

55-4-362. Tennis Memphis.

(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 Tennis Memphis 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 Tennis Memphis. The plates shall be designed in consultation with a representative of Tennis Memphis, Inc.

(c) The funds produced from the sale of Tennis Memphis new specialty earmarked license plates shall be allocated to Tennis Memphis, Inc., in accordance with § 55-4-301. The funds shall be used to assist the organization in carrying out its mission of supporting tennis and education enrichment programs.

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, 2020, to meet the applicable minimum issuance requirements of § 55-4-202(h)(1).

55-4-366. Jackson 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 Jackson 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 Jackson State University. The design of the plates shall be approved by Jackson State University prior to production, and shall additionally afford the trademark protection as Jackson State University shall require as otherwise permitted by law. All uses of the colors and logo of Jackson State University shall inure to the benefit of Jackson State University.

(c) In accordance with § 55-4-301, the funds produced from the sale of Jackson State University new specialty earmarked license plates shall be allocated to the JSUNAA-Memphis Alumni Chapter. The funds shall be used exclusively for its scholarship program and other general alumni association activities.
55-4-375. [Obsolete.]

55-4-376. [Obsolete.]

55-4-377. [Obsolete.]

55-4-378. [Obsolete.]

55-4-379. [Obsolete.]

55-4-380. [Obsolete.]

55-4-381. The Center for Living and Learning, 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 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 picture of the Liberty Bell and the American Flag and the
       words: “Let Freedom Ring” and be further designed in consultation with the
       board of directors of The Center for Living and Learning, Inc.
   (c) In accordance with § 55-4-301, the funds produced from the sale of The
       Center for Living and Learning, Inc. new specialty earmarked license plates
       shall be allocated to The Center for Living and Learning, Inc., which is a
       nonprofit corporation providing holistic care for individuals suffering from
       mental illness. Such funds shall be used to benefit the programs at The Center
       for Living and Learning, Inc.

55-4-407. Permit for exceptionally tall mobile homes — Fee — Routing
   instructions.
   (a) A permit shall be required for the transport of any mobile home
       exceeding fourteen feet two inches (14’ 2”) in height. Permits authorized
       pursuant to this section shall be issued on a short-term basis only and shall be
       accompanied by special routing instructions approved by the department of
       transportation. The transport of mobile homes exceeding sixteen feet (16’) in
       height shall not be permitted.
   (b) The fee for permits issued pursuant to this section shall be fifty dollars
       ($50.00).
   (c) The department of transportation shall make available, both in printed
       form and on the department’s official website, a list of the overpasses on public
       roads within the state that have a minimum clearance above the roadway
       below of less than fourteen feet six inches (14’ 6”). The list shall be updated at
least monthly on the website and at least annually in the printed version. The department is authorized to charge a fee for the printed list sufficient to offset the administrative cost of compiling, updating, printing and shipping the list.


(a)(1) Any person, firm, or corporation engaged in the business of buying or selling used automobile parts shall keep permanent records of transactions of buying or selling engines, transmissions, vehicle bodies, chassis, doors, deck lids, front end clips (fenders and grill), seats, differentials, tires and wheels, steering wheels, automobile radios and automobile tape players, and bumpers. The record must include from whom the item was purchased and the seller’s address and driver license number, and to whom the item was sold and the purchaser’s address and driver license number, as well as the description of the item and any identifying number or numbers. The records must be kept for a period of three (3) years from the date of the transaction and made available to all law enforcement officers for inspection at any reasonable time during business hours without prior notice or the necessity of obtaining a search warrant.

(2) Notwithstanding this title to the contrary, any motor vehicle dismantler and recycler that is licensed pursuant to § 55-17-109, and is fully compliant with the reporting requirements of § 55-3-203(c), is not required to keep the records required by subdivision (a)(1), with regard to transactions of selling the parts described. All other required records must be kept.

(3) Any person, firm, or corporation engaged in the business of selling used automobile parts must provide a bill of sale, including the source of the part, when requested by the purchaser of any major component part, in order to comply with § 55-3-206, which requires the inspection and certification of any rebuilt motor vehicle.

(4) Any person, firm, or corporation required to keep records by §§ 55-5-106 — 55-5-110 and knowingly failing to do so commits a Class C misdemeanor.

(5) For the purpose of locating stolen vehicles, establishing lawful ownership, possession, titling, or registration, any motor vehicle investigator designated by the commissioner of revenue or the commissioner of safety, except as provided in subdivision (a)(6), may inspect any vehicle, whether intact, wrecked, or dismantled, at an automobile dismantler’s lot, salvage lot, or other similar establishment required to keep records under subdivision (a)(1), within this state.

(6) Inspection conducted pursuant to subdivision (a)(1), (a)(4), or (a)(5) must be conducted during normal business hours and at a time and in a manner so as to minimize any interference with or delay of business operations. The inspection does not apply to a scrap processor when the scrap processor obtains any vehicle that has been crushed or flattened.
“Scrap processor” means any person, firm, or corporation engaged in the business of buying motor vehicles or motor vehicle parts to process into scrap metal for remelting purposes who, from a fixed location, utilizes machinery and equipment for processing and manufacturing ferrous or nonferrous metallic scrap into prepared grades, and whose principal product is metallic scrap for these purposes.

(b)(1) As used in this subsection (b), unless the context otherwise requires, “property” means any vehicle, aircraft, boat or other vessel, special mobile equipment, boat trailer, mobile self-propelled construction, farm or forestry machinery, similar equipment, or any component part.

(2) Any property on which the manufacturer’s serial number, engine number, transmission number, vehicle identification number, or other distinguishing number or identification mark has been removed, defaced, covered, altered, destroyed or otherwise rendered unidentifiable is hereby declared to be contraband and subject to forfeiture to the state. This subdivision (b)(2) applies to all persons, including, but not limited to, those persons designated in subsection (a). It is the duty of the commissioner or the commissioner’s designee, and of any other state, county, or municipal law enforcement officer or campus police officer as defined in § 49-7-118, internal affairs director or internal affairs special agent of the department of correction, when such person has reason to believe that property constitutes contraband under this section, to seize and impound or otherwise take custody of the property on behalf of the department of safety.

(3) Where there is only one (1) claimant to the property seized or taken into the custody of the department of safety, the claimant may elect to give a bond payable to the state in an amount double the value of the property seized, with corporate sureties approved by the commissioner of safety or the commissioner’s designee. If a claimant elects to give a bond, the commissioner of safety or the commissioner’s designee has the discretion to deliver the property to the claimant, pending a hearing to determine whether or not the property constitutes contraband under this section. The condition of the bond shall be that the obligors shall pay to the state, through the department of safety, the amount of the bond upon failure of the claimant to surrender the property in substantially the same condition as when it was released, to the department of safety upon a final determination adverse to the claimant.

(4) Whenever any property believed to constitute contraband under this section comes into the custody of the commissioner of safety or the commissioner’s designee, the person from whom the property was taken and any other possible claimant whose interest or title may be found of record in the department of safety shall be notified within a reasonable time. The notice shall be personally served or sent by certified mail, return receipt requested. If the department of safety is unable to determine with reasonable certainty the identities or addresses of all possible claimants, notice by one (1) publication in one (1) newspaper of general circulation in the area where the property was confiscated shall be adequate notice to all possible claimants. Notice by publication may contain multiple listings of property.

(5) Any claimant to a property that has come into the custody of the commissioner of safety or the commissioner’s designee under this section shall have a right to a hearing before the commissioner of safety or the commissioner’s designee under the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, and § 67-1-105(a), upon written request or
petition, within ten (10) days after receiving notice by personal service, certified mail or publication; provided, that after the hearing is conducted, a decision shall be rendered within forty-five (45) days unless good cause is shown why a longer time may be required. Claimants shall be advised of this right in the notice. The commissioner of safety may waive reimbursement for any or all towing, preservation, or storage charges as the equities of the case may require. If a claimant, in a written request or petition, expresses a desire that the hearing before the commissioner of safety or the commissioner's designee be held in the county where the property in question was seized, that request shall be honored. Failure of the claimant to request a hearing for return of the property within the time provided shall constitute a waiver of all rights, title or interest the claimant may have in the property.

(6) Within a reasonable time after the expiration of the ten-day period, the commissioner of safety or the commissioner's designee, upon a hearing when the matter is contested, shall determine the rights, title or interests of all claimants to the property. If a claimant establishes by a preponderance of the evidence the original identification numbers or marks of the property and the claimant's right, title, or interest of the property bearing that number or mark, the commissioner of safety, upon reimbursement for all towing, preservation and storage charges, shall release the property to the claimant, and the department of safety shall issue the claimant a permit to restore the original identification numbers or marks as provided under § 55-5-112(b). If no claimant can establish in this manner the claimant's ownership of the property, the property shall be forfeited to the state.

(7) Property forfeited under this section shall be sold by the department of general services as provided by law, or held and titled to the department of safety for its use. The commissioner of safety may contract for the towing, storage, and/or disposal through public auction of all property forfeited to the state. The proceeds of the sales shall be retained by the department of safety for use in vehicle investigations. However, in cases where the property was seized or taken into custody by a state, county or municipal law enforcement agency, the property shall be sold and the proceeds divided equally between the department of safety and the cooperating agency. Future forfeitures or proceeds shall not be anticipated in the adoption and approval of the budget for the department of safety, except expenditures from these proceeds shall be subject to the approval of the commissioner of finance and administration and the comptroller of the treasury.

(8) Nothing in this section shall be construed to allow the seizure or impoundment by the department of safety or any other agency or individuals of any nonfactory-made trailers, logging trailers, or homemade trailers.

55-7-201. Maximum length of vehicles.

(a) For purposes of this section, “truck tractor” means the noncargo carrying power unit that operates in combination with a semitrailer or trailer, except that a truck tractor and semitrailer engaged in the transportation of automobiles may transport motor vehicles on part of the power unit.

(b) No motor vehicle as defined in § 55-1-103 consisting of a straight truck whose length, including any part of its body or load, exceeds forty-five feet (45’) and no straight truck with trailer attached, the total length of which combination, including any part of the body or load, exceeds sixty-five feet (65’) shall
be operated on any highway.

(c) Motor vehicles consisting of a truck-tractor and semitrailer or trailer combination shall be permitted to operate over the federal and state highway system; provided, that the towed vehicle shall not exceed fifty feet (50') in length from the point of attachment to the tractor, except that this length may be increased to fifty-two feet (52') when the load on the vehicle consists of livestock, motor vehicle parts, automobiles and/or motor vehicles. If the towed vehicle exceeds forty-eight feet (48') in length from the point of attachment to the tractor and the load on the vehicle does not consist of livestock, motor vehicle parts, automobiles and/or motor vehicles, the distance between the kingpin and the rearmost axle or a point midway between the two (2) rear axles, if the two (2) rear axles are a tandem axle, shall not exceed forty-one feet (41').

(d) Motor vehicles consisting of a truck-tractor and twin trailer combination shall be permitted to operate on the national network of highways, including interstate highways and the additional highways identified in 23 CFR Part 658, Appendix A; provided, that neither of the towed vehicles shall exceed twenty-eight feet six inches (28' 6") in length.

(e) No twin trailer truck authorized by this chapter shall be operated on any highway designated as a scenic highway under the authority of title 54, chapter 17. The national network of highways, including interstate highways and the additional highways identified in 23 CFR Part 658, Appendix A, shall not be considered scenic routes for purposes of this chapter.

(f) The limitation as to length stated in this section shall not apply to loads of poles, logs or timber in single length pieces; provided, that no motor vehicle, including any part of the body or load, transporting such material shall be in excess of seventy-five feet (75') in length unless a permit has first been obtained as authorized in § 55-7-205.

(g) The length limitations described in this section shall be exclusive of safety and energy conservation devices designated by the commissioner except that no device excluded from the limitations of this section shall have by its design or use the capability to carry cargo.

(h) It is not a violation of the length limits set forth in this section when any otherwise properly titled and registered vehicle, which is in compliance with applicable length requirements, is disabled on the highways and requires a tow or other assistance in proceeding to an exit or a repair or terminal facility within one hundred (100) miles of the point where the vehicle became disabled, and the combined lengths of the disabled vehicle and the tow vehicle exceed the limits in this section. This exemption shall only apply to vehicles disabled while operating on the highway, and only when authorized by the owner, terminal manager, owner's agent, or law enforcement official.

(i)(1) Notwithstanding any other maximum vehicle length provision of this section, a stinger-steered automobile transporter with a front overhang of less than four feet (4') and a rear overhang of less than six feet (6') shall be permitted to operate on the national network of highways, including interstate highways and the additional highways identified in 23 CFR Part 658, Appendix A, up to a maximum vehicle length of eighty feet (80').

(2) For purposes of this subsection (i), a “stinger-steered automobile transporter” means an automobile transporter, which is a vehicle combination designed and used specifically for the transport of assembled automobiles, that has a fifth wheel located on a drop frame behind and below the
rear-most axle of the power unit.

(j)(1) Notwithstanding any other maximum vehicle length provision of this section, a towaway trailer transporter combination shall be permitted to operate on the national network of highways, including interstate highways and the additional highways identified in 23 CFR Part 658, Appendix A, up to a maximum vehicle length of eighty-two feet (82').

(2) For purposes of this subsection (j), a “towaway trailer transporter combination” means a combination of vehicles consisting of a trailer transporter towing unit and two (2) trailers or semitrailers in which:

(A) The total weight does not exceed twenty-six thousand pounds (26,000 lbs.); and

(B) The trailers or semitrailers carry no property and constitute inventory of a manufacturer, distributor, or dealer of such trailers or semitrailers.

(k) This section shall be enforced in accordance with all applicable provisions of federal law regarding the operation of vehicles on the national network of highways, including interstate highways and the additional highways identified in 23 CFR Part 658, Appendix A.

55-7-202. Maximum width and height.

(a)(1) No motor vehicle as defined in § 55-1-103 or any trailer or semitrailer, whose width, including any part of the load, exceeds eight feet (8') (that is, four feet (4') on each side of the center line of the vehicle), or whose height, including any part of the load, exceeds thirteen and one-half feet (13 ½'), shall be operated on any highway; provided, that this section shall not apply to farm tractors or farm machinery temporarily moving on any highway.

(2) Subdivision (a)(1) relating to maximum width restrictions on trailers and semitrailers shall not apply to a trailer or semitrailer utilized for transporting seed cotton or rolled hay bales; provided, that the width of any such trailer or semitrailer, including any part of the load, shall not exceed ten feet (10') (that is five feet (5') on each side of the center line of the trailer, or semitrailer), and such 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 of transportation.

(3) In the event federal law and regulations permit the operation of passenger buses of widths in excess of eight feet (8') on the national systems of interstate and defense highways, then there may be operated on highways with four (4) or more lanes, and such other highways as are designated and approved by the commissioner within the state, passenger buses, the width of which do not exceed eight feet six inches (8' 6"), or such width, not exceeding eight feet six inches (8' 6"), as is permitted under the federal rules and regulations.

(4) It is not a violation of this part to transport a houseboat eighteen feet (18') in width, or less, on the highways, but any houseboat in excess of eight feet (8') shall be subject to the fees provided in § 55-7-205.

(b) The approval of the commissioner for buses in excess of eight feet (8') to operate on streets and roads shall be inoperative unless approved by the
legislative body of any city with a population of one hundred seventy thousand (170,000) to two hundred fifty thousand (250,000), according to the 1970 federal census.

(c) Motor vehicles not exceeding eight feet six inches (8’ 6”) in width are permitted to operate over the interstate system and other federal-aid highways designated by the commissioner. Incidental appurtenances and retracted awnings, where the width does not exceed six inches (6’), and safety devices, as designated by the commissioner, shall be excluded from the measurement of width and the provisions contained in § 55-7-205. Within the limitations as provided in this chapter, any such vehicles may use and must confine themselves to the shortest reasonable route to and from the interstate system, other designated highways, and terminals; or, in the case of household goods carriers, to and from points of loading and unloading. Access to facilities in interchange areas adjoining these highways for food, fuel, repairs and rest shall not be denied.

(d) Notwithstanding the limitations in subsection (a), a motor vehicle, as defined in § 55-1-103, or a trailer or semitrailer, whose width, including any part of the load, does not exceed eight feet six inches (8’ 6”) (that is, four feet three inches (4’ 3”) on each side of the center line of the vehicle), and whose height, including any part of the load does not exceed thirteen feet six inches (13’ 6”), may be operated on the federal and state highway system. Any such vehicles may use and must confine themselves to the shortest reasonable route to and from the federal and state highway system, and terminals; or, in the case of household goods carriers, to and from points of loading and unloading. Access to facilities in interchange areas adjoining these highways for food, fuel, repairs and rest shall not be denied.

(e)(1) Notwithstanding the limitations set forth in subsection (a), between one (1) minute past midnight (12:01 a.m.) on the first Friday in March and eleven fifty-nine p.m. (11:59 p.m.) on the first Sunday in November each year, a motor vehicle carrying rafts or rafting apparatus used by an operator for commercial whitewater rafting purposes, when the driver of such motor vehicle possesses written documentation from the department of revenue that such operator is in compliance with the policy of liability insurance provisions in § 65-15-110(b), and having a height, including any part of the load, that exceeds thirteen feet (13’) but does not exceed seventeen and one-half feet (17 ½’) may operate on the following state highway segments:

(A) State Route 40 (United States Highway 64) in Polk County between State Route 33 (United States Highway 411) east of Cleveland and State Route 68 in Ducktown (Ocoee River); and

(B) Interstate 40 in Cocke County between the Foothills Parkway and the Tennessee-North Carolina border (Pigeon River);

and within five (5) miles of such highway segments upon any additional public road as necessary to travel to and from such operator’s place of business to such highway or to and from such highway to such operator’s river access point, so long as the load is secured and the vehicle is operated in a safe manner at all times.

(2) Nothing in this section shall be construed to require the department of transportation or any other entity to design, construct, or maintain overhead structures on or along such highways or public roads with a clearance in excess of thirteen feet (13’) or any otherwise applicable design standard.

(f) This section shall be enforced in accordance with all applicable provisions
of federal law regarding the operation of vehicles on the national network of highways, including interstate highways and the additional highways identified in 23 CFR Part 658, Appendix A.

55-7-203. Maximum weight per axle or group of axles allowed — Exemptions for heavy-duty tow and recovery and emergency fire suppression vehicles.

(a) Except as otherwise provided by law, no freight motor vehicle shall be operated over, on, or upon the public highways of this state where the total weight on a single axle or any group of axles exceeds the weight limitations set forth in subdivisions (b)(1)-(7).

(b)(1)(A) No axle shall carry a load in excess of twenty thousand pounds (20,000 lbs.).

(B) Axle combinations and fifth wheel placement on the tractor shall ensure equal weight distribution on weight carrying axle combinations, and the axle combinations shall be equipped with brakes having power motivation.

(C) An axle load as set out herein is defined as the total load transmitted to the road by all wheels whose centers may be included between two (2) parallel transverse vertical planes, not more than forty inches (40”) apart, extending across the full width of the vehicle.

(2) The total gross weight concentrated on the highway surface from any tandem axle group shall not exceed thirty-four thousand pounds (34,000 lbs.) for each tandem axle group. “Tandem axle group” means two (2) or more axles spaced more than forty inches (40”) and not more than ninety-six inches (96”) apart from center to center having at least one (1) common point of weight suspension.

(3) The total gross weight of a vehicle, freight motor vehicle, truck-tractor, trailer or semitrailer or combinations of these vehicles operated over, on or upon the public highways of this state shall not exceed eighty thousand pounds (80,000 lbs.); provided, that when operating over or on the interstate system of this state the total gross weight shall not exceed the lesser of eighty thousand pounds (80,000 lbs.) or the weight produced by application of the following formula:

\[ W = \frac{500(LN - 1 + 12N + 36)}{N-1} \]

Where \( W \) = overall gross weight on any group of two (2) or more consecutive axles to the nearest five hundred pounds (500 lbs.), \( L \) = distance in feet between the extreme of any group of two (2) or more consecutive axles, and \( N \) = number of axles in group under consideration, except that two (2) consecutive sets of tandem axles may carry a gross load of thirty-four thousand pounds (34,000 lbs.) each, where the overall distance between the first and last axles of such consecutive sets of tandem axles is thirty-six feet (36”) or more, except such vehicles, or combinations thereof operating under special permits now authorized by law; provided, that wherever a maximum permissive gross weight of eighty thousand pounds (80,000 lbs.) or of lengths prescribed in § 55-7-201 or a height of thirteen and one-half feet (13 ½”) is authorized for any vehicle or combination of vehicles, it is the legislative intent that the prescribed weight, length, and height limits shall be strictly enforced, and it is unlawful for any state, county, or municipal officer to allow
or permit any additional weight, length or height by way of tolerance or otherwise, except that the commissioner of transportation may issue special permits pursuant to § 55-7-205.

(4) “Freight motor vehicle,” as used in this section, includes both the tractor or truck and the trailer, semitrailer or trailers, if any, and the weight of any combination shall not exceed the maximum fixed herein; provided, that no freight motor vehicle with motive power shall haul more than one (1) vehicle unless otherwise provided.

(5) No freight motor vehicle shall haul a trailer on any highway of this state when the trailer (including its load) weighs more than three thousand five hundred pounds (3,500 lbs.). The restrictions on hauling a trailer in excess weight of three thousand five hundred pounds (3,500 lbs.) by a freight motor vehicle, as described in the preceding sentence, shall not be applicable whenever a converter dolly or equivalent fixed connection having the same safety characteristics is appropriately installed or placed under the trailer to be hauled by this freight motor vehicle. For the purposes of this subdivision (b)(5), “trailer” means a vehicle without motive power designed or used for carrying freight or property wholly on its own structure; provided, that it is not unlawful for any motor vehicle subject to this part to have a semitrailer, which, for the purposes hereof, is defined as a vehicle for the carrying of property or freight and so designed that some part of the weight of the semitrailer or its load rests upon or is carried by the motor vehicle to which it is attached. The hauling of a trailer (to the extent herein permitted) or a semitrailer shall be subject to the further provisions hereof. This part is not intended to prohibit the movements of spools carrying wire or cable, when used for construction or repair purposes. The weight limitation respecting trailers shall not be applicable to implements designed to distribute fertilizer while such vehicles are being drawn by a freight motor vehicle between the plant and the farm.

(6) If the gross weight of a freight motor vehicle does not exceed the sum obtained by computing the total weight allowable for the number and type of its axles, the driver shall not be cited for violation of an axle weight limitation while transporting crushed stone, fill dirt and rock, soil, bulk sand, coal, clay, shale, phosphate muck, asphalt, concrete, other building materials, solid waste, tankage or animal residues, livestock and agricultural products, or agricultural limestone over the state highway system other than the portion designated as the interstate system.

(7) For purposes of enforcement of this section, weight restrictions shall be deemed to have a margin of error of ten percent (10%) of the true gross or axle weight for all logging, sand, coal, clay, shale, phosphate, solid waste, recovered materials, farm trucks and machinery trucks when being operated over the state highway system other than the portion designated as the interstate system. For the purposes of this subdivision (b)(7):

(A) “Clay truck” means those trucks used for hauling clay from the place of extraction to the place where the clay is used or processed;

(B) “Coal truck” means those trucks used for hauling coal and coal products;

(C) “Farm truck” means those trucks utilized by farmers to load grain, fiber, produce, livestock, milk or other agricultural products produced on their farms and to transport the agricultural commodities to their respective markets. The trucks include farm to market transportation when the truck is operated by the farmer, the farmer’s family or employee or a
representative hired by the farmer to haul the commodity;

(D) “Logging truck” means those trucks used for hauling logs, pulpwood, bark, wood chips or wood dust from the woods to the mill or from the mill to a loading or storage place or market;

(E) “Machinery truck” means those trucks used for hauling machinery by the owner/operator within a one hundred (100) mile radius of the base location of the owner/operator’s area of operation, subject to the limitation of one (1) truck per owner/operator;

(F) “Phosphate truck” means those trucks used for hauling phosphate, phosphate products, or other raw materials used in the manufacture of phosphorus;

(G) “Recovered materials truck” means those trucks used for hauling recovered materials, as defined in § 68-211-802, but only while those materials are being hauled from the point of generation to the facility where they will be processed for subsequent shipment to an end-user;

(H) “Sand truck” means those trucks used for hauling raw sand from the place of extraction to the place where the sand is used or processed; provided, that if the commissioner of transportation is formally notified by an appropriate federal officer that as a result of any provision of Acts 1989, ch. 349, adding sand trucks to this subdivision (b)(7) that Tennessee will lose federal funds, then such act shall be void and inoperative;

(I) “Shale truck” means those trucks used for hauling shale from the place of extraction to the place where the shale is used or processed; and

(J) “Solid waste truck” means those trucks used for hauling solid waste, as defined in § 68-211-802, but only while the solid waste is being collected and being hauled from the place or places of collection to a landfill or disposal facility.

(8) Notwithstanding the maximum weight provisions of this section, in order to promote the reduction of fuel use and emissions, the maximum gross vehicle weight limits and axle weight limits for any motor vehicle subject to subdivision (b)(3) and equipped with idle-reduction technology or other emissions-reduction technology shall be increased by the weight of the idle-reduction technology or emissions-reduction technology; provided, that such weight is not more than five hundred fifty pounds (550 lbs.) or the maximum amount allowed by federal law, whichever is greater. At the request of an authorized representative of the department of safety, the motor vehicle operator shall provide proof by means of documentation or by a physical inspection that the vehicle is equipped with such idle-reduction technology or other emissions-reduction technology.

(9)(A) To the extent required by federal law, a vehicle operated by an engine fueled primarily by natural gas may exceed any vehicle weight limit under this section, up to a maximum gross vehicle weight of eighty-two thousand pounds (82,000 lbs.), by an amount that is equal to the difference between:

(i) The weight of the vehicle attributable to the natural gas tank and fueling system carried by that vehicle; and

(ii) The weight of a comparable diesel tank and fueling system.

(B) Subdivision (b)(9)(A) applies only when a vehicle is operating on the interstate highway system or within terminals and facilities for food, fuel, repairs, and rest with reasonable access to and from the interstate highway system.

(c) For nondivisible overweight loads exceeding the maximum gross vehicle
weight established in this section, the commissioner may issue a special permit in accordance with § 55-7-205 allowing axle weights in excess of the axle weight limits established in subsection (b) as follows:

(1) The maximum width of the vehicle, including the truck and semitrailer or trailer combination, shall not exceed ten feet (10'); provided, however, that the load may exceed ten feet (10') in width if properly permitted;

(2) No single axle shall carry a load in excess of twenty-three thousand pounds (23,000 lbs.);

(3) No tandem axle group shall carry a load in excess of forty-six thousand pounds (46,000 lbs.); and

(4) No axle group of three (3) axles (tridem) shall carry a load in excess of sixty thousand pounds (60,000 lbs.).

(d)(1) To the extent required by federal law, the vehicle weight limitations set forth in this section do not apply to a covered heavy-duty tow and recovery vehicle operating on the interstate highway system and within reasonable access to and from the interstate highway system to terminals and facilities for food, fuel, repairs, and rest.

(2) As used in this subsection (d), “heavy-duty tow and recovery vehicle” means a vehicle that:

(A) Is transporting a disabled vehicle from the place where the vehicle became disabled to the nearest appropriate repair facility; and

(B) Has a gross vehicle weight that is equal to or exceeds the gross vehicle weight of the disabled vehicle being transported.

(e)(1) To the extent required by federal law, the vehicle weight limitations otherwise set forth in this section do not apply to an emergency fire suppression vehicle operating on the interstate highway system and within reasonable access to and from the interstate highway system to terminals and facilities for food, fuel, repairs, and rest. The following vehicle weight limitations shall apply instead:

(A) A maximum gross vehicle weight of eighty-six thousand pounds (86,000 lbs.);

(B) Twenty-four thousand pounds (24,000 lbs.) on a single steering axle;

(C) Thirty-three thousand five hundred pounds (33,500 lbs.) on a single drive axle;

(D) Sixty-two thousand pounds (62,000 lbs.) on a tandem axle; and

(E) Fifty-two thousand pounds (52,000 lbs.) on a tandem rear drive steer axle.

(2) As used in this subsection (e), “emergency fire suppression vehicle” means a vehicle designed to be used under emergency conditions:

(A) To transport personnel and equipment; and

(B) To support the suppression of fires and mitigation of other hazardous situations.

(f) This section shall be enforced in accordance with all applicable provisions of federal law regarding the operation of vehicles.

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 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 (2/3) 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
   (D)(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.

(o) Notwithstanding this section, chapter 4, part 4 of this title, or any other law or regulation to the contrary, the movement of any mobile home not exceeding fourteen feet (14’1") in width shall not be required to have more than one (1) escort vehicle to follow the movement, or any escort vehicle to precede the movement, on the interstate highway system or highways with four (4) or more lanes, and such movement shall not be required to have more than one (1) escort vehicle to precede the movement, or any escort vehicle to follow the movement, on two-lane highways.

(p) Notwithstanding subsections (e)-(g) or any other law to the contrary, an applicant for the issuance or renewal of a special permit for the movement of an oversize motor vehicle, or trailer or semitrailer, whose height, including the load, may exceed the limits prescribed in § 55-7-202 is not required, as a condition for the issuance or renewal of the permit, to complete or submit a route survey of the proposed route of travel unless the height of the vehicle and load exceeds fifteen feet six inches (15’6”).
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 no more than four (4) passengers and a steering wheel. “Class I off-highway vehicle” includes mini-trucks;

(13) “Class II off-highway vehicle” means any off-highway vehicle that is designed to be primarily used for recreational purposes, that has a nonstraddle seating capable of holding at least two (2) but no more than four (4) passengers and a steering wheel, and that is commonly referred to as a sand buggy, dune buggy, rock crawler, or sand rail. “Class II off-highway vehicle” does not include a snowmobile or other vehicle designed to travel exclusively over snow or ice;

(14) “Commissioner” means the commissioner of safety;

(15) “Controlled-access highway” means every highway, street or roadway in respect to which owners or occupants of abutting lands and other persons have no legal right of access to or from the same, except at such points only and in such manner as may be determined by the public authority having jurisdiction over the highway, street or roadway;

(16) “Crosswalk” means:

(A) That part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from the curbs or, in the absence of curbs, from the edges of the traversable roadway; or

(B) Any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the
surface;

(17) “Dealer” means every person engaged in the business of buying, selling or exchanging vehicles of a type required to be registered and who has an established place of business for that purpose in this state;

(18) “Department” means the department of safety;

(19) “Driver” means:
   (A) For purposes of a conventionally operated vehicle, every person who drives or is in actual physical control of a vehicle; and
   (B) For purposes of an ADS-operated vehicle and when the context requires, the ADS when the ADS is engaged;

(20) “Dynamic driving task” means all of the real-time operational and tactical functions required to operate a vehicle in on-road traffic. “Dynamic driving task” does not include strategic functions, such as route selection and scheduling;

(21)(A) “Electric scooter”:
   (i) Means a device weighing less than one hundred pounds (100 lbs.) that:
      (a) Has handlebars and an electric motor;
      (b) Is solely powered by the electric motor or human power, or both; and
      (c) Has a maximum speed of no more than twenty miles per hour (20 mph) on a paved level surface when powered solely by the electric motor; and
   (ii) Does not include an electric bicycle, electric personal assistive mobility device, motorcycle, or motor-driven cycle; and
   (B) An electric scooter is a motor-driven vehicle, for purposes of § 55-10-401;

(22) “Essential parts” means all integral and body parts of a vehicle of a type required to be registered, the removal, alteration or substitution of which would tend to conceal the identity of the vehicle or substantially alter its appearance, model, type or mode of operation;

(23) “Established place of business” means the place actually occupied either continuously or at regular periods by a dealer or manufacturer where the books and records are kept and a large share of the business is transacted;

(24) “Explosives” means any chemical compound or mechanical mixture that is commonly used or intended for the purpose of producing an explosion and that contains any oxidizing and combustive units or other ingredients in those proportions, quantities or packing that an ignition by fire, by friction, by concussion, by percussion or by detonator of any part of the compound or mixture may cause such a sudden generation of highly heated gases that the resultant gaseous pressures are capable of producing destructive effects on contiguous objects or of destroying life or limb;

(25) “Farm tractor” means every motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines and other implements of husbandry;

(26) “Flammable liquid” means any liquid that has a flash point of seventy degrees Fahrenheit (70° F.), or less, as determined by a tagliabue or equivalent closed-cup test device;

(27) “Foreign vehicle” means every vehicle of a type required to be registered brought into this state from another state, territory or country other than in the ordinary course of business by or through a manufacturer
or dealer and not registered in this state;

(28) “Golf cart” means a motor vehicle that is designed and manufactured for operation on a golf course for sporting or recreational purposes and equipped with safety belts installed for use in the left front and right front seats and that is not capable of exceeding speeds of twenty miles per hour (20 mph);

(29) “Gross weight” means the weight of a vehicle without load plus the weight of any load thereon;

(30) “Highway” means the entire width between the boundary lines of every way when any part thereto is open to the use of the public for purposes of vehicular travel;

(31) “Implement of husbandry” means every vehicle that is designed for agricultural purposes and exclusively used by the owner thereof in the conduct of the owner’s agricultural operations;

(32) “Intersection” means:

(A) The area embraced within the prolongation or connection of the lateral curb lines, or, if none, then the lateral boundary lines of the roadways of two (2) highways that join one another at, or approximately at, right angles, or the areas within which vehicles traveling upon different highways joining at any other angle may come in conflict; or

(B) Where a highway includes two (2) roadways thirty feet (30') or more apart, then every crossing of each roadway of that divided highway by an intersecting highway shall be regarded as a separate intersection. In the event the intersecting highway also includes two (2) roadways thirty feet (30') or more apart, then every crossing of two (2) roadways of such highways shall be regarded as a separate intersection;

(33) “Laned roadway” means a roadway which is divided into two (2) or more clearly marked lanes for vehicular traffic;

(34) “License to operate a vehicle” means any operator’s or chauffeur’s license, or any other license or permit to operate a motor vehicle issued under the laws of this state including:

(A) Any temporary license or instruction permit;

(B) The privilege of any person to drive a motor vehicle whether or not that person holds a valid license; and

(C) Any nonresident's operating privilege as defined in this section;

(35) “Local authorities” means every county, municipal and other local board or body having authority to enact ordinances or make regulations relating to traffic under the constitution and laws of this state;

(36) “Low speed vehicle” means any four-wheeled electric vehicle, excluding golf carts, whose top speed is greater than twenty miles per hour (20 mph) but not greater than twenty-five miles per hour (25 mph), including neighborhood vehicles. Low speed vehicles must comply with the safety standards in 49 CFR 571.500;

(37) “Manufacturer” means every person engaged in the business of constructing or assembling vehicles of a type required to be registered at an established place of business in this state;

(38) “Medium speed vehicle” means any four-wheeled electric or gasoline-powered vehicle, excluding golf carts, whose top speed is greater than thirty miles per hour (30 mph), but whose maximum speed allowed is thirty-five miles per hour (35 mph) only on streets with a forty mile per hour (40 mph) or less posted speed limit pursuant to § 55-8-191(b)(1), and otherwise meets or exceeds the federal safety standards set forth in 49 CFR 571.500, except
as otherwise provided in § 55-4-136;

(39) “Metal tire” means every tire the surface of which in contact with the highway is wholly or partly of metal or other hard, nonresilient material;

(40) “Minimal risk condition” means a low-risk operating mode in which an ADS-operated vehicle when the ADS is engaged achieves a reasonably safe state upon experiencing a failure of the vehicle’s ADS that renders the vehicle unable to perform the entire dynamic driving task;

(41) “Motor vehicle” means every vehicle, including a low speed vehicle or a medium speed vehicle that is self-propelled, excluding electric scooters, electric bicycles as defined in § 55-8-301, 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;

(42) “Motorcycle” has the same meaning in § 55-1-103;

(43) “Motor-driven cycle” means every motorcycle, including every motor scooter, with a motor that produces no more than five (5) brake horsepower, or with a motor with a cylinder capacity not exceeding one hundred twenty-five cubic centimeters (125cc). “Motor-driven cycle” does not include an electric scooter;

(44) “Motorized bicycle” means a vehicle with two (2) or three (3) wheels, an automatic transmission, and a motor with a cylinder capacity not exceeding fifty cubic centimeters (50cc) which produces no more than two (2) brake horsepower and is capable of propelling the vehicle at a maximum design speed of no more than thirty miles per hour (30 mph) on level ground. The operator of a motorized bicycle must be in possession of a valid operator’s or chauffeur’s license, and shall be subject to all applicable and practical rules of the road. A motorized bicycle may not be operated on a highway of the interstate and defense highway system, any similar limited access multilane divided highway, or upon sidewalks;

(45) “Off-highway vehicle” or “off-highway motor vehicle” means any vehicle designed primarily to be operated off public highways, including any Class I off-highway vehicle, Class II off-highway vehicle, all-terrain vehicle, any motorcycle commonly referred to as a dirt bike, or any snowmobile or other vehicle designed to travel exclusively over snow or ice;

(46) “Official traffic-control devices” means all signs, signals, markings and devices not inconsistent with this chapter and chapter 10, parts 1-5 of this title placed or erected by authority of a public body or official having jurisdiction for the purpose of regulating, warning or guiding traffic;

(47) “Operator” means:

(A) For purposes of a conventionally operated vehicle, every person, other than a chauffeur, who drives or is in actual physical control of a motor vehicle upon a highway or who is exercising control over or steering a vehicle being towed by a motor vehicle; and

(B) For purposes of an ADS-operated vehicle and when the context requires, the ADS when the ADS is engaged;

(48) “Owner” means a person who holds the legal title of a vehicle, or in the event a vehicle is the subject of an agreement for the conditional sale or lease thereof, with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, or in the event a mortgagor of a vehicle is entitled to possession, then the conditional vendee or lessee or mortgagor shall be deemed the owner for the purpose of this chapter and chapter 10,
parts 1-5 of this title;

(49) “Park,” when prohibited, means the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading;

(50) “Pedestrian” means any person afoot or using a motorized or non-motorized wheelchair;

(51) “Person” means a natural person, firm, copartnership, association, corporation, or an engaged ADS;

(52) “Platoon” means a group of individual motor vehicles that are traveling in a unified manner at electronically coordinated speeds;

(53) “Pneumatic tire” means every tire in which compressed air is designed to support the load;

(54) “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;

(55) “Police officer” means every officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations;

(56) “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;

(57) “Railroad” means a carrier of persons or property upon cars, other than streetcars, operated upon stationary rails;

(58) “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;

(59) “Railroad train” means a steam engine, electric or other motor, with or without cars coupled thereto, operated upon rails, except streetcars;

(60) “Recovered materials” and “recyclable materials” have the same meanings as defined in § 68-211-802;

(61) “Recycling vehicle” means any vehicle that is designed and used exclusively for the collection or transportation of recovered materials or recyclable materials;

(62) “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;

(63) “Right-of-way” means the privilege of the immediate use of the roadway;

(64) “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;

(65) “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;

(66) “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;

(67) "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;

(68) "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;

(69) "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;

(70) "Solid tire" means every tire of rubber or other resilient material which does not depend upon compressed air for the support of the load;

(71) "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;

(72) "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 (72);

(73) "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;

(74) "Stop," when required, means complete cessation from movement;

(75) "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;

(76) "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;

(77) "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;

(78) "Streetcar" means a car other than a railroad train for transporting persons or property and operated upon rails principally within a municipality;

(79) "Through highway" means every highway or portion of the highway at the entrance to which vehicular traffic from intersecting highways is required by law to stop before entering or crossing the same and when stop signs are erected as provided in this chapter. The department of transportation shall be authorized to designate through highways;

(80) "Trackless trolley coach" means every motor vehicle that is propelled by electric power obtained from overhead trolley wires but not operated upon rails;
“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;

“Traffic” means pedestrians, ridden or herded animals, vehicles, streetcars and other conveyances either singly or together while using any highway for purposes of travel;

“Traffic-control signal” means any device, whether manually, electrically or mechanically operated, by which traffic is alternately directed to stop and to proceed;

“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;

“Truck” means every motor vehicle designed, used or maintained primarily for the transportation of property;

“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;

“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

“Vehicular” 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.

55-8-123. Driving on roadways laned for traffic.

Whenever any roadway has been divided into two (2) or more clearly marked lanes for traffic, the following rules, in addition to all others consistent with this section, shall apply:

(1) A vehicle shall be driven as nearly as practicable entirely within a single lane and shall not be moved from that lane until the driver has first ascertained that the movement can be made with safety;

(2) Upon a roadway that is divided into three (3) lanes, a vehicle shall not be driven in the center lane except when overtaking and passing another vehicle where the roadway is clearly visible and the center lane is clear of traffic within a safe distance, or in preparation for a left turn or where the center lane is at the time allocated exclusively to traffic moving in the direction the vehicle is proceeding and is signposted to give notice of this allocation;

(3) Official signs may be erected directing slow-moving traffic to use a designated lane or designating those lanes to be used by traffic moving in a particular direction regardless of the center of the roadway, and drivers of vehicles shall obey the directions of every such sign; and

(4)(A) Where passing is unsafe because of traffic in the opposite direction or other conditions, a slow-moving vehicle, including a passenger vehicle, behind which five (5) or more vehicles are formed in line, shall turn or pull off the roadway wherever sufficient area exists to do so safely, in order to permit vehicles following it to proceed. As used in this subdivision (4), a slow-moving vehicle is one which is proceeding at a rate of speed that is ten miles per hour (10 mph) or more below the lawful maximum speed for
that particular roadway at that time;

(B) Any person failing to conform with subdivision (4)(A) shall receive a warning citation on first offense and be liable for a fine of twenty dollars ($20.00) on second offense, and fifty dollars ($50.00) on third and subsequent offenses;

(C) Subdivision (4)(A) shall not apply to funeral processions, school buses, farm tractors, or implements of husbandry.

55-8-139. Limitations on where person may stand along roadway.

(a) No person shall stand in a roadway for the purpose of soliciting a ride or employment from the occupant of any vehicle.

(b) No person shall stand on or in proximity to a street or highway for the purpose of soliciting the watching or guarding of any vehicle while parked or about to be parked on a street or highway.

(c) No person shall loiter or conduct any commercial activity in, or in proximity to, the median of a state highway.

(d) Subsection (c) does not apply to:

(1) Employees of, or agents, contractors, or other persons under contract with, or acting on behalf of, the department of transportation; and

(2) Employees of, or agents, contractors, or other persons who are under contract with, or acting on behalf of, a county, municipality, or other political subdivision of this state or a utility, and who are permitted by the department of transportation to stand or conduct any activity in, or in proximity to, the median of a state highway.

(e) A violation of this section is a Class C misdemeanor; except, that a person who violates subsection (c) shall receive a warning citation for a first offense.

55-8-151. Overtaking and passing school, youth or church bus — Markings — Discharging passengers — Penalties — Installation of cameras on school buses.

(a)(1) The driver of a vehicle upon a highway, upon meeting or overtaking from either direction any school bus that has stopped on the highway for the purpose of receiving or discharging any school children, shall stop the vehicle before reaching the school bus, and the driver shall not proceed until the school bus resumes motion or is signaled by the school bus driver to proceed or the visual signals are no longer actuated. Subsection (a) shall also apply to a school bus with lights flashing and stop sign extended and marked in accordance with this subsection (a) that is stopped upon property owned, operated, or used by a school or educational institution, if the bus is stopped for the purpose of receiving or discharging any school children outside a protected loading zone.

(2) All motor vehicles used in transporting school children to and from school in this state are required to be distinctly marked “School Bus” on the front and rear thereof in letters of not less than six inches (6") in height, and so plainly written or printed and so arranged as to be legible to persons approaching the school bus, whether traveling in the same or opposite direction.

(3)(A) The driver of a vehicle upon a highway with separate roadways need not stop upon meeting or passing a school bus that is on a different
roadway or when upon a controlled-access highway and the school bus is stopped in a loading zone that is a part of or adjacent to the highway and where pedestrians are not permitted to cross the roadway.

(B) For the purpose of this subsection (a), “separate roadways” means roadways divided by an intervening space that is not suitable to vehicular traffic.

(4) Except as otherwise provided by subdivisions (a)(1)-(3), the school bus driver is required to stop the school bus on the right-hand side of the road or highway, and the driver shall cause the bus to remain stationary and the visual stop signs on the bus actuated, until all school children who should be discharged from the bus have been so discharged and until all children whose destination causes them to cross the road or highway at that place have negotiated the crossing.

(5)(A) It is a Class C misdemeanor for any person to fail to comply with any provision of this subsection (a) other than the requirement that a motor vehicle stop upon approaching a school bus.

(B) It is a Class A misdemeanor punishable only by a fine of not less than two hundred fifty dollars ($250) nor more than one thousand dollars ($1,000) for any person to fail to comply with the provision of this subsection (a) requiring a motor vehicle to stop upon approaching a school bus.

(6) Subdivisions (a)(1)-(5) shall not be applicable to the vehicles of street railway companies, as defined in § 65-16-101 [repealed], while those vehicles are being used for the transportation of school children within a municipality or its environs in the area over which a municipality or a municipal regulatory agency has regulatory jurisdiction under § 65-16-101 [repealed].

(b) Local education agencies (LEAs) are authorized to display a sticker on the rear of school buses directing drivers to remain at a distance of at least one hundred feet (100') while the bus is in motion, except when lawfully overtaking and passing the school bus. The department of safety shall develop uniform standards for the stickers.

(c)(1) Any local education agency (LEA) may purchase, install, operate, and maintain cameras on the exterior of school buses, or may enter into a contract with a private vendor to purchase, install, operate, and maintain cameras on the exterior of school buses on behalf of the LEA, for the purpose of recording images of motor vehicles that are in violation of subdivision (a)(1) for failing to stop upon approaching a school bus.

(2) An LEA that installs cameras on the exterior of school buses in accordance with subdivision (c)(1) shall enter into a memorandum of understanding with local law enforcement for the preservation of evidence from a camera. Only POST-certified or state-commissioned law enforcement officers are authorized to review evidence from a camera to determine whether a violation of subdivision (a)(1) has occurred.

(3)(A) A first violation of subdivision (a)(1) that is based solely upon evidence from a camera that has been installed on the exterior of a school bus is considered a nonmoving traffic violation. The registered owner of the motor vehicle is responsible for payment of any notice of violation or citation, not to exceed fifty dollars ($50.00), for a first offense citation issued as the result of evidence from a camera; provided, that the owner is not responsible for the violation if the owner submits documentation in
accordance with § 55-8-198(e).

(B) A second or subsequent violation of subdivision (a)(1) that is based solely upon evidence from a camera that has been installed on the exterior of a school bus is a Class A misdemeanor punishable in accordance with subdivision (a)(5)(B); provided, that the state must meet the burden of proof set out in § 39-11-201, and the person charged has no burden to prove innocence. An owner is not responsible for the violation if the owner submits documentation in accordance with § 55-8-198(e).

(4) Notices of violations or citations must be sent in accordance with § 55-8-198(b)(1) to the registered owner of the vehicle that was captured by the camera. A citation based solely upon evidence obtained from a camera that has been installed on the exterior of a school bus is deemed invalid if the registration information of the motor vehicle for which the citation is issued is not consistent with the evidence recorded by the camera.

(5) The notice of violation or citation must state the following:
   (A) The date, location, and time of the alleged violation;
   (B) The amount of the fine being assessed; and
   (C) The means by which the owner may elect to shift responsibility for the payment of the citation to the operator of the vehicle at the time of the alleged violation pursuant to this subdivision (c)(5).

(6)(A) One hundred percent (100%) of the proceeds from any fine imposed by subdivision (c)(5)(A) that is based solely upon evidence obtained from a school bus camera shall be allocated to the LEA without being designated for any particular purpose.

   (B)(i) The LEA may use the proceeds for the purpose of defraying the costs of purchasing, installing, operating, or maintaining the camera, or reimbursing or compensating the vendor with which the LEA contracted regarding the purchase, installation, operation, or maintenance of the camera.

   (ii) If the LEA uses the proceeds for the purpose of reimbursing or compensating a vendor with which the LEA contracted regarding the purchase, installation, operation, or maintenance of the camera, then the LEA shall create procedures for such reimbursement or compensation and shall maintain records of such reimbursement or compensation.

(7) No more than one (1) citation shall be issued for each distinct and separate traffic offense in violation of subdivision (a)(1) or a municipal ordinance or law that mirrors, substantially duplicates, or incorporates by cross-reference the language of subdivision (a)(1).

(8) Any LEA that contracts for transportation services with any persons or entities that own school buses, shall include in each contract a provision requiring the owner to allow the LEA, private vendor, or local law enforcement agency reasonable access to the bus for the purposes of installing, maintaining, or inspecting cameras or obtaining, gathering, or transmitting recorded images from the camera to enforce subdivision (a)(1).

(9) Any photograph or video recorded by a camera in accordance with this subsection (c) is admissible as evidence in any proceeding alleging a violation of subsection (a) if the photograph or video meets the standards of admissibility set forth in the Tennessee Rules of Evidence.

(10) As used in this subsection (c):
   (A) “Camera” means any device that is capable of:
(i) Producing a digital photograph, recorded video, or other recorded image, including an image of a motor vehicle passing or overtaking a school bus and the vehicle's license plate; and
(ii) Recording the time, date, and location of a vehicle at the time the image is recorded;
(B) “Local education agency” or “LEA” means the same as defined by § 49-1-103; and
(C) “School bus” means every motor vehicle owned by a county, city, local board of education, LEA, or private contractor that is operated for the transportation of students to or from any public school or public school-related activities.
(d)(1)(A) The driver of a vehicle on a highway upon meeting or overtaking from either direction any church bus which has stopped on the highway for the purpose of receiving or discharging passengers shall stop the vehicle before reaching the church bus, and the driver shall not proceed until the church bus resumes motion or is signaled by the church bus driver to proceed or the visual signals on the bus are no longer actuated.
(B) This subsection (d) shall not apply unless the church bus has the same type of safety equipment indicating the bus has stopped as is required for school buses.
(2) All motor vehicles used in transporting passengers to and from churches in this state are required to be distinctly marked “Church Bus” on the front and rear thereof in letters of not less than six inches (6") in height and so plainly written or printed and so arranged as to be legible to persons approaching the church bus, whether traveling in the same or the opposite direction.
(3)(A) The driver of a vehicle upon a highway with separate roadways need not stop upon meeting or passing a church bus which is on a different roadway or when upon a controlled access highway and the church bus is stopped in a loading zone that is a part of or adjacent to the highway and where pedestrians are not permitted to cross the roadway.
(B) For the purpose of subdivision (d)(3)(A), “separate roadways” means roadways divided by an intervening space that is not suitable to vehicular traffic.
(4) Except as otherwise provided by this subsection (d), the church bus driver is required to stop the church bus on the right-hand side of the road or highway, and the driver shall cause the bus to remain stationary and the visual stop signs on the bus actuated until all passengers who should be discharged from the bus have been so discharged and until all passengers whose destination causes them to cross the road or highway at that place have negotiated the crossing.
(5) Any person failing to comply with the requirements of this subsection (d), requiring motor vehicles to stop upon approaching church buses, or violating any of this subsection (d), commits a Class C misdemeanor.
(e)(1)(A) The driver of a vehicle on a highway upon meeting or overtaking from either direction any youth bus that has stopped on the highway for the purpose of receiving or discharging passengers shall stop the vehicle before reaching the youth bus, and the driver shall not proceed until the youth bus resumes motion or is signaled by the youth bus driver to proceed or the visual signals on the bus are no longer actuated.
(B) Subdivision (e)(1)(A) shall not apply unless the youth bus has the same type of safety equipment indicating the bus has stopped as is
required for school buses.

(2) All motor vehicles owned by corporations or organizations used in transporting child passengers to and from child care centers in this state or to and from the activities of religious, charitable, scientific, educational, youth service or athletic institutions or organizations are required to be distinctly marked “Youth Bus” on the front and rear thereof in letters of not less than six inches (6") in height and so plainly written or printed and so arranged as to be legible to persons approaching such youth bus, whether traveling in the same or the opposite direction.

(3)(A) The driver of a vehicle upon a highway with separate roadways needs not stop upon meeting or passing a youth bus that is on a different roadway or when upon a controlled access highway and the youth bus is stopped in a loading zone that is a part of or adjacent to such highway and where pedestrians are not permitted to cross the roadway.

(B) For the purpose of subdivision (e)(3)(A), “separate roadways” means roadways divided by an intervening space that is not suitable to vehicular traffic.

(4) Except as otherwise provided by this subsection (e), the youth bus driver is required to stop the youth bus on the right-hand side of the road or highway, and the driver shall cause the bus to remain stationary and the visual stop signs on the bus actuated until all passengers who should be discharged from the bus have been so discharged and until all passengers whose destination causes them to cross the road or highway at that place have negotiated the crossing.

(5) Any person failing to comply with the requirements of this subsection (e), requiring motor vehicles to stop upon approaching youth buses, or violating any of this subsection (e), commits a Class C misdemeanor.

(6) For purposes of this subsection (e), a “youth bus” means a motor vehicle designed for carrying not less than fifteen (15) passengers and used for the transportation of persons.

55-8-154. Minimum speed regulation — Turnouts — Passing bays — Penalties — Inapplicable to farm tractors or implements of husbandry.

(a) No person shall drive a motor vehicle at such a slow speed as to impede the normal and reasonable movement of traffic, except when reduced speed is necessary for safe operation or in compliance with law.

(b) Whenever the department of transportation or a local authority within its respective jurisdiction determines on the basis of an engineering and traffic investigation that slow speeds on any part of a highway consistently impede the normal and reasonable movement of traffic, the department or local authority may determine and declare a minimum speed limit below which no person shall drive a vehicle except when necessary for safe operation or in compliance with law.

(c) Wherever there exists, at or near the top of any hill or grade, a turnout, passing bay or parking area adjacent to and to the right of any traffic lane of any state or federal highway within the state, any person driving or operating a truck or other slow-moving vehicle upon such traffic lane shall drive the truck or other slow-moving vehicle into and stop the same upon the turnout, passing bay or parking area and permit faster-moving vehicles following the
truck or other slow-moving vehicle whose progress is being retarded to pass; provided, that the turnout, passing bay or parking area is marked by a traffic sign.

(d) This section shall not apply to farm tractors or implements of husbandry.

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

55-8-185. 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 (\(\frac{2}{3}\)) vote of the local legislative body of the municipality and monitored by a local law enforcement agency. Any local legislative body that has approved the operation of the vehicles pursuant to this subdivision (c)(1)(B) as it existed prior to April 28, 2017, shall not be required to resubmit and reapprove the operation pursuant to this subdivision (c)(1)(B) on or after April 28, 2017;

(C) State Route 62 from its intersection with Wind Rock Road westward to its intersection with Winter Gap Road, then southeastward on Winter Gap Road to its intersection with State Route 61 (Railroad Avenue), then eastward on State Route 61 (Railroad Avenue) to its intersection with State Route 62, within the jurisdiction of Oliver Springs in Anderson County on any two (2) weekends per year during the hours of daylight, which includes the thirty (30) minutes before dawn and the thirty (30) minutes after dusk; provided, that the operation is approved by a two-thirds (\(\frac{2}{3}\)) vote of the local legislative body of the municipality and monitored by a local law enforcement agency;

(D) State Route 330 from its intersection with State Route 62 westward to its intersection with State Route 61, then southwestward on West Spring Street to its intersection with Winter Gap Road, within the jurisdiction of Oliver Springs in Anderson County on any two (2) weekends per year during the hours of daylight, which includes the thirty (30) minutes before dawn and the thirty (30) minutes after dusk; provided, that the operation is approved by a two-thirds (\(\frac{2}{3}\)) vote of the local legislative body of the municipality and monitored by a local law enforcement agency;

(E) State Route 63 from its intersection with Ershell Collins Road West to its intersection with Titus Hollow Road in Campbell County;

(F) State Route 63 from its intersection with Old Stinking Creek Road West to its intersection with Old Highway 63 in Campbell County;

(G) State Route 116 from its intersection with U.S. Highway 25W (State Route 9) West to its intersection with Better Chance Road in Campbell County;

(H) U.S. Highway 25W (State Route 9) from its intersection with State Route 116 to its intersection with Dogwood Road in Campbell County;

(I) U.S. Highway 25W (State Route 9) from its intersection with North Tennessee Avenue to its intersection with Ivy Dale Road in Campbell County;

(J) U.S. Highway 25W (State Route 9) from its intersection with McClouds Trail to 4267 U.S. Highway 25W South, which segment is approximately two and one-half (2.5) miles long, in Campbell County;

(K) U.S. Highway 25W (State Route 9) from its intersection with Elk Tower on Austin Powder Road to the Peabody Convenience Center in Campbell County;

(L) U.S. Highway 25W (State Route 9) from its intersection with Highcliff Road to its intersection with the Kentucky state line at State Street in Campbell County;

(M) State Route 297 from its intersection with U.S. Highway 25W to its intersection with London Avenue in Campbell County;

(N) State Route 297 from its intersection with Woolridge Pike to its intersection with Whistle Creek Road in Campbell County;
(O) U.S. Highway 25W from TN Exit 160 to Crouches Creek Hollow Road in Campbell County;

(P) State Route 116 from its intersection with Rattlesnake Ridge Road, which is approximately one and two-tenths (1.2) miles north of State Route 62, then northward on State Route 116 for approximately three and four-tenths (3.4) miles to its intersection with the walking trails of Frozen Head State Park and Trail 27 of Wind Rock Park, within Morgan County between the hours of eight o’clock a.m. (8:00 a.m.) and eight o’clock p.m. (8:00 p.m.);

(Q) State Route 53 beginning from the Granville Marina and Resort and ending at the Sutton Homestead in the Town of Granville;

(R) State Route 167 from mile marker 10 to mile marker 13, within the jurisdiction of Johnson County;

(S) State Route 133 from its intersection with U.S. Highway 421 to the Tennessee-Virginia state line, within the jurisdiction of Johnson County;

(T) U.S. Highway 421 from the Mountain City limits to its intersection with Corner Road, within the jurisdiction of Johnson County;

(U) State Route 13 from the Wayne County – Perry County boundary to its intersection with Turnbo Lane, within the jurisdiction of Perry County;

(V) State Route 329 from its intersection with U.S. Highway 27 to 849 Deer Lodge Highway, within the jurisdiction of the City of Sunbright in Morgan County; and

(W) U.S. Highway 27 from its junction with Mill Road northward to its junction with State Route 62, within the jurisdiction of Morgan County.

(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
(E) State Route 116 (U.S. Highway 25W) from its intersection with Fork Mountain Road to its intersection with Windrock Trail, which is designated by the wildlife resources agency as G-71;

(F) State Route 116 (U.S. Highway 25W) from its intersection with Colonial Lane to its intersection with Better Chance Road;

(G) U.S. Highway 441 (Norris Freeway) from its intersection with State Route 116 (U.S. Highway 25W) to 709 Norris Freeway;

(H) State Route 116 from its intersection with State Route 330 to its intersection with Windrock Park Trail 74; and

(I) State Route 116 from its intersection with State Route 330 to its intersection with Windrock Park Trail 75.

(d) A violation of this section is a Class C misdemeanor punishable by a fine only of not more than fifty dollars ($50.00).

(e) In addition to subsections (a)-(d), notwithstanding any law to the contrary, an all-terrain vehicle as defined in § 55-8-101 may be operated or driven upon any unpaved streets, roads, or highways, as designated specifically for such purpose upon two-thirds (2/3) vote by the local governing body, and included within the boundaries of an adventure tourism district established pursuant to title 11, chapter 11, part 2, if such all-terrain vehicle complies with the following:

1. The governing body of a municipality or metropolitan government may regulate in any manner, by lawfully enacted ordinance, the operation of any all-terrain vehicle crossing of a street, road or highway solely under the municipality's jurisdiction; provided, that such municipality provides written notification to the department of safety prior to the effective date of the ordinance and posts appropriate signage designating such all-terrain vehicle crossing on such street, road or highway;

2. The governing body of any county may by lawfully enacted resolution regulate the operation of all-terrain vehicles on any street, road or highway solely under the county's jurisdiction; provided, that such county provides written notification to the department of safety prior to such resolution becoming effective and posts appropriate signage designating such street, road or highway for all-terrain vehicle use;

3. An all-terrain vehicle is specifically restricted to only between one-half (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.
55-8-199. Prohibited uses of wireless telecommunications devices or stand-alone electronic devices.

(a) As used in this section:

(1) “Stand-alone electronic device” means a portable device other than a wireless telecommunications device that stores audio or video data files to be retrieved on demand by a user;

(2) “Utility services” means electric, natural gas, water, waste-water, cable, telephone, or telecommunications services or the repair, location, relocation, improvement, or maintenance of utility poles, transmission structures, pipes, wires, fibers, cables, easements, rights of way, or associated infrastructure; and

(3) “Wireless telecommunications device” means a cellular telephone, a portable telephone, a text-messaging device, a personal digital assistant, a stand-alone computer, a global positioning system receiver, or substantially similar portable wireless device that is used to initiate or receive communication, information, or data. “Wireless telecommunications device” does not include a radio, citizens band radio, citizens band radio hybrid, commercial two-way radio communication device or its functional equivalent, subscription-based emergency communication device, prescribed medical device, amateur or ham radio device, or in-vehicle security, navigation, autonomous technology, or remote diagnostics system.

(b)(1) A person, while operating a motor vehicle on any road or highway in this state, shall not:

(A) Physically hold or support, with any part of the person’s body, a:

(i) Wireless telecommunications device. This subdivision (b)(1)(A)(i) does not prohibit a person eighteen (18) years of age or older from:

(a) Using an earpiece, headphone device, or device worn on a wrist to conduct a voice-based communication; or

(b) Using only one (1) button on a wireless telecommunications device to initiate or terminate a voice communication; or

(ii) Stand-alone electronic device;

(B) Write, send, or read any text-based communication, including, but not limited to, a text message, instant message, email, or internet data on a wireless telecommunications device or stand-alone electronic device. This subdivision (b)(1)(B) does not apply to any person eighteen (18) years of age or older who uses such devices:

(i) To automatically convert a voice-based communication to be sent as a message in a written form; or

(ii) For navigation of the motor vehicle through use of a device’s global positioning system;

(C) Reach for a wireless telecommunications device or stand-alone electronic device in a manner that requires the driver to no longer be:

(i) In a seated driving position; or

(ii) Properly restrained by a safety belt;

(D) Watch a video or movie on a wireless telecommunications device or stand-alone electronic device other than viewing data related to the navigation of the motor vehicle; or

(E) Record or broadcast video on a wireless telecommunications device or stand-alone electronic device. This subdivision (b)(1) does not apply to electronic devices used for the sole purpose of continuously recording or
broadcasting video within or outside of the motor vehicle.

(2) Notwithstanding subdivisions (b)(1)(A) and (B), and in addition to the exceptions described in those subdivisions, a function or feature of a wireless telecommunications device or stand-alone electronic device may be activated or deactivated in a manner requiring the physical use of the driver's hand while the driver is operating a motor vehicle if:

(A) The wireless telecommunications device or stand-alone electronic device is mounted on the vehicle's windshield, dashboard, or center console in a manner that does not hinder the driver's view of the road; and

(B) The driver's hand is used to activate or deactivate a feature or function of the wireless telecommunications device or stand-alone electronic device with the motion of one (1) swipe or tap of the driver's finger, and does not activate camera, video, or gaming features or functions for viewing, recording, amusement, or other non-navigational functions, other than features or functions related to the transportation of persons or property for compensation or payment of a fee.

(c)(1) A violation of this section is a Class C misdemeanor, subject only to imposition of a fine not to exceed fifty dollars ($50.00). However, if the violation is the person's third or subsequent offense or if the violation results in an accident, the fine is one hundred dollars ($100); or if the violation occurs in a work zone when employees of the department of transportation or construction workers are present or in a marked school zone when a warning flasher or flashers are in operation, the fine is two hundred dollars ($200). Any person violating this section is subject to the imposition of court costs not to exceed ten dollars ($10.00), including, but not limited to, any statutory fees of officers. State and local litigation taxes are not applicable to a case prosecuted under this section.

(2) In lieu of any fine imposed under subdivision (c)(1), a person who violates this section as a first offense may attend and complete a driver education course pursuant to § 55-10-301.

(3) Each violation of this section constitutes a separate offense.

(d) This section does not apply to the following persons:

(1) Officers of this state or of any county, city, or town charged with the enforcement of the laws of this state, or federal law enforcement officers when in the actual discharge of their official duties;

(2) Campus police officers and public safety officers, as defined by § 49-7-118, when in the actual discharge of their official duties;

(3) Emergency medical technicians, emergency medical technician-paramedics, and firefighters, both volunteer and career, when in the actual discharge of their official duties;

(4) Emergency management agency officers of this state or of any county, city, or town, when in the actual discharge of their official duties;

(5) Persons using a wireless telecommunications device to communicate with law enforcement agencies, medical providers, fire departments, or other emergency service agencies while driving a motor vehicle, if the use is necessitated by a bona fide emergency, including a natural or human occurrence that threatens human health, life, or property;

(6) Employees or contractors of utility services providers acting within the scope of their employment; and

(7) Persons who are lawfully stopped or parked in their motor vehicles or who lawfully leave standing their motor vehicles.

(e) A traffic citation that is based solely upon a violation of this section is
considered a moving traffic violation.

(f) The department of transportation is directed to utilize the department’s permanent electronic overhead informational displays located throughout this state to provide periodic messages to the motoring public as to this section.

(g) The department of safety is directed to include distracted driving as part of the instructional information used in driver education training.

55-8-207. [Repealed.]

55-8-208. Regulation of use and operation of electric scooter.

Section 55-8-302 applies to an electric scooter and any person operating an electric scooter, including an exclusion from chapters 3 and 4 of this title, relating to titling and registration. Nothing in this section or § 55-8-302 preempts a county, municipality, or metropolitan form of government, by ordinance of its legislative body, from regulating, controlling, or banning the use and operation of electric scooters within the geographic boundaries of the county, municipality, or metropolitan government. The ordinances must be reasonably related to promotion and protection of the health, safety, and welfare of riders, operators, pedestrians, and motorists.


(a) Every vehicle other than a motor vehicle, when traveling upon a state highway, state aid road or other road, highway or street under the control of the state, the federal government or any political division thereof, dedicated, appropriated or open to public use or travel, shall be equipped with a light attached to and on the upper left side of the vehicle, capable of displaying a light visible five hundred feet (500') to the front and five hundred feet (500') to the rear of the vehicle under ordinary atmospheric conditions, and the light shall be displayed during the period from one-half (½) hour after sunset to one-half (½) hour before sunrise and at all other times when there is not sufficient light to render clearly discernible any person on the road or highway at a distance of two hundred feet (200') ahead of the vehicle.

(b) Cotton wagons used exclusively to transport cotton shall not be required to display the light described in subsection (a), but shall display:

(1) A red tail lamp on the lower left corner of the rear of the wagon; and

(2) A triangle-shaped slow-moving vehicle identification emblem meeting Standard S276.8 of the American Society of Agricultural Engineers. The emblem shall be placed on the lower left corner of the rear of the wagon. The user of a cotton wagon shall be responsible for the proper function of the symbol or light, except for any malfunction resulting from the act or omission of another person.

(c) Horse drawn vehicles that are used on the highways primarily as means of transportation shall:

(1) Be equipped on the top with a battery powered white strobe light of a type approved for rural mail carriers under § 55-9-413 and shall have at least one hundred square inches (100 sq. in.) of reflector tape placed on the rear of the vehicle; or

(2) Be equipped with two (2) reflective type lanterns, one (1) to be placed on the left side of the vehicle and one (1) to be placed on the right side of the
vehicle with the lantern on the right side to be placed at least twelve inches (12") higher than the lantern on the left, and shall also have a minimum of one hundred square inches (100 sq. in.) of reflector tape placed on the rear of the vehicle, thirty-six inches (36") of reflector tape placed on each side of the vehicle, and twenty-four inches (24") of reflector tape placed at the highest point of the left front of the vehicle.

(d) During the period of time from one-half (½) hour before sunset until one-half (½) hour after sunrise, any implement of husbandry as defined in § 55-1-108 having a width of more than ninety-six inches (96"), which is towed behind a farm tractor or other motor vehicle, and the lighting of the farm tractor or other motor vehicle is concealed by the implement of husbandry, shall be equipped with two (2) red or amber flashing lamps, one on each side, attached at the rear, or accompanied by a rear escort utilizing its emergency flashers.

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


(a) Every vehicle other than a motor vehicle, when traveling upon a state highway, state aid road or other road, highway or street under the control of the state, the federal government or any political division thereof, dedicated, appropriated or open to public use or travel, shall be equipped with a light attached to and on the upper left side of the vehicle, capable of displaying a light visible five hundred feet (500') to the front and five hundred feet (500') to the rear of the vehicle under ordinary atmospheric conditions, and the light shall be displayed during the period from one-half (½) hour after sunset to one-half (½) hour before sunrise and at all other times when there is not sufficient light to render clearly discernible any person on the road or highway at a distance of two hundred feet (200') ahead of the vehicle.

(b) Cotton wagons used exclusively to transport cotton shall not be required to display the light described in subsection (a), but shall display:

(1) A red tail lamp on the lower left corner of the rear of the wagon; and

(2) A triangle-shaped slow-moving vehicle identification emblem meeting Standard S276.8 of the American Society of Agricultural Engineers. The emblem shall be placed on the lower left corner of the rear of the wagon. The user of a cotton wagon shall be responsible for the proper function of the symbol or light, except for any malfunction resulting from the act or omission of another person.

(c) No person shall operate on a highway a horse-drawn vehicle that is used on the highway primarily as a means of transportation during the period of time from one-half (½) hour before sunset until one-half (½) hour after sunrise and at all other times when there is not sufficient light to render clearly discernible any person on the road or highway at a distance of two hundred feet (200') ahead of the vehicle, unless the vehicle:

(1)(A) Is equipped with two (2) reflective type lanterns, one (1) to be placed on the left side of the vehicle and one (1) to be placed on the right side of the vehicle with the lantern on the right side to be placed at least twelve inches (12") higher than the lantern on the left, and also has a minimum of one hundred square inches (100 sq. in.) of reflector tape placed on the rear of the
vehicle, thirty-six inches (36") of reflector tape placed on each side of the vehicle, and twenty-four inches (24") of reflector tape placed at the highest point of the left front of the vehicle; and

(B) Is equipped with one (1) red, battery-operated light-emitting diode (LED) flashing light located at the top left-hand corner on the rear of the vehicle. The light must be at least three inches (3") by three inches (3"); or

(2)(A) Has a minimum of one hundred square inches (100 sq. in.) of reflector tape placed on the rear of the vehicle, thirty-six inches (36") of reflector tape placed on each side of the vehicle, and twenty-four inches (24") of reflector tape placed at the highest point of the left front of the vehicle;

(B) Has six inches (6") of reflector piping tape placed on two (2) locations on the rear, left wheel of the vehicle; and

(C) Is equipped with two (2) reflective type lanterns, one (1) to be placed on the left side of the vehicle and one (1) to be placed on the right side of the vehicle with the lantern on the right side to be placed at least twelve inches (12") higher than the lantern on the left. Each lantern must be equipped with a red reflective type lens that is at least three inches (3") by three inches (3").

(d) During the period of time from one-half (½) hour before sunset until one-half (½) hour after sunrise, any implement of husbandry as defined in § 55-1-108 having a width of more than ninety-six inches (96"), which is towed behind a farm tractor or other motor vehicle, and the lighting of the farm tractor or other motor vehicle is concealed by the implement of husbandry, shall be equipped with two (2) red or amber flashing lamps, one on each side, attached at the rear, or accompanied by a rear escort utilizing its emergency flashers.

(e) A violation of this section is a Class C misdemeanor, punishable only by a fine not to exceed fifty dollars ($50.00); except, the fine imposed for a violation of subsection (c) is ten dollars ($10.00).

55-10-108. Additional information — Request for copy of report — Reports open to public inspection — Prohibited uses.

(a) The department may require any driver of a vehicle involved in an accident of which report must be made as provided in this section to file supplemental reports whenever the original report is insufficient in the opinion of the department and may require witnesses of accidents to render reports to the department.

(b)(1) Every law enforcement officer who, in the regular course of duty, investigates a motor vehicle accident, whether the accident has occurred on a highway within this state or on privately owned real property, either at the time of and at the scene of the accident or thereafter, by interviewing the participants or witnesses, shall, within seven (7) calendar days after completing the investigation, forward a report of the accident to the department, and a copy thereof shall be kept in the various district offices of the Tennessee highway patrol. Any motor vehicle officer investigating any accident, at the time of and at the scene of the accident, may have the parties exchange insurance information, which would include the name of each party’s insurance company and the location of an agency of the insurance company. Reports prepared by a law enforcement officer shall include information pertaining to the insurance policy, including the name of the insurance company, if known, of each person involved in the accident. If a
person has 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 report.

(2) Every law enforcement officer who, in the regular course of duty, investigates a motor vehicle accident that occurs on a road or highway in Tennessee, including federal interstates and defense highways, shall note on the report of the accident if physical barriers are present at the site of such motor vehicle accident.

(c) Whenever an accident occurs involving operators of railroad locomotives, law enforcement officers making reports of such accidents shall enter the operating permit number issued by the employing railroad instead of the operator's motor vehicle license number.

(d) Upon written request to the commissioner of safety in Nashville by the driver or owner of a vehicle involved in such an accident, or the driver's or owner's agent or legal representative, a copy of any report of a motor vehicle accident investigated by the department shall be forwarded to the requesting party, the written request to be accompanied by four dollars ($4.00) which shall be expendable receipts of the department. Except for personally identifying information described in § 10-7-504(a)(31), the report under subsection (b) shall not be considered confidential within the meaning of § 55-10-114(a). Copies of any reports of a motor vehicle accident investigated by the department that are on file in the various district offices of the Tennessee highway patrol shall be made available for inspection by the parties set forth in this subsection (d), and may be obtained from the station by paying the fee of four dollars ($4.00).

(e) The department of safety shall monitor reports of accidents forwarded to the department by law enforcement agencies to ensure that the reports are being forwarded timely. The department shall notify any law enforcement agency that fails consistently to forward the reports within seven (7) calendar days pursuant to subsection (b).

(f)(1) Any report of a motor vehicle accident investigated by the department or prepared pursuant to subsection (b) is open to public inspection as a public record under the public records laws compiled in title 10, chapter 7, with the exception of personally identifying information as provided in § 10-7-504(a)(31).

(2) It is a Class B misdemeanor, punishable only by fine of two thousand five hundred dollars ($2,500) per occurrence for any person to knowingly use the report or information contained in the report for solicitation that is prohibited by a standard of conduct or practice of any profession licensed by this state. Any person requesting the disclosure of personally identifying information who misrepresents that person's identity or makes a false statement on any request submitted pursuant to this chapter commits a Class B misdemeanor, punishable only by a fine of two thousand five hundred dollars ($2,500) per occurrence.

(g) A person who holds a professional license regulated by the executive branch of this state who uses information obtained pursuant to this section in violation of a statute, code of professional ethics, or rule of professional conduct applicable to that person commits a Class B misdemeanor, punishable by fine only of two thousand five hundred dollars ($2,500) per occurrence.

(h) In addition to any other remedies, a person whose personally identifying
information is obtained in violation of subdivision (f)(2) or subsection (g) may bring a private right of action individually to recover actual damages against the person or entity committing such violation. The trial court may award a civil penalty up to two thousand five hundred dollars ($2,500) per act or occurrence against such person or entity. The action may be brought in a court of competent jurisdiction in the county where the alleged violation took place or in the county in which the plaintiff resides. Upon a determination of a violation by the trier of fact, the court may award the plaintiff reasonable attorneys' fees and costs. The private right of action provided in this subsection (h) does not apply to contact by persons or entities allowed to obtain personally identifying information pursuant to § 10-7-504(a)(31)(B) or other applicable law.

(i)(1) As used in this subsection (i):
   (A) “Accident response service fee” means a fee imposed for the response or investigation by a law enforcement agency of a motor vehicle accident; and
   (B) “Entity” includes a governmental entity or agency or a department of a governmental entity.

(2) Notwithstanding any other law to the contrary, no person or entity shall impose an accident response service fee on or from an insurance company, the driver or owner of a motor vehicle, or any other person. Nothing in this part prevents any county, municipality or other local government from billing an insurance company, the driver or owner of a motor vehicle, or any other person for ambulance services provided in response to or in conjunction with emergency response to motor vehicle accidents.

55-10-207. Traffic citation in lieu of arrest.

(a) As used in this section, “traffic citation” means a written citation or an electronic citation prepared by a law enforcement officer on paper or on an electronic data device with the intent the citation shall be filed, electronically or otherwise, with a court having jurisdiction over the alleged offense.

(b)(1) Whenever a person is arrested for a violation of any provision of chapter 8, 9, 10 or 50 of this title or § 55-12-139, or chapter 52, part 2 of this title, punishable as a misdemeanor, and the person is not required to be taken before a magistrate or judge as provided in § 55-10-203, the arresting officer shall issue a traffic citation to the person in lieu of arrest, continued custody and the taking of the arrested person before a magistrate, except as provided in subsection (h).

(2) A law enforcement officer at the scene of a traffic accident may issue a traffic citation to the driver or drivers of any vehicles involved in the accident when, based on personal investigation, the officer has reasonable and probable grounds to believe that the person or persons have committed an offense under chapter 8, 9, 10 or 50 of this title.

(3) Whenever a person is arrested for a violation of any provision of chapter 4, part 4 of this title that is punishable as a misdemeanor, the arresting officer may issue a traffic citation to the person in lieu of arrest, continued custody and the taking of the arrested person before a magistrate.

(c)(1) The traffic citation shall demand the person cited to appear in court at a stated time and it shall state the name and address of the person cited, the
name of the issuing officer, and the offense charged. Unless the person cited requests an earlier date, the time specified on the traffic citation to appear shall be as fixed by the arresting officer. The traffic citation shall give notice to the person cited that failure to appear as ordered is punishable as contempt of court. The traffic citation delivered to the court shall be sworn to by the issuing officer before a magistrate or official lawfully assigned this duty by a magistrate. The person cited shall signify the acceptance of the traffic citation and the agreement to appear in court as directed by signing the citation.

(2) Any traffic citation prepared as a paper copy shall be executed in triplicate, the original to be delivered to the court specified therein, one (1) copy to be given to the person cited, and one (1) copy to be retained by the officer issuing the citation.

(3) Replicas of traffic citation data sent by electronic transmission shall be sent within three (3) days of the issuance of the citation to the court having jurisdiction over the alleged offense. Any person issued a traffic citation prepared by a law enforcement officer electronically shall be provided with a paper copy of the traffic citation. A law enforcement officer who files a citation electronically shall be considered to have certified the citation and has the same rights, responsibilities, and liabilities as other citations issued pursuant to this section.

(d) Whenever a traffic citation has been prepared, accepted, and the original citation delivered to the court as provided herein, the original citation delivered to the court shall constitute a complaint to which the person cited must answer and the officer issuing the citation shall not be required to file any other affidavit of complaint with the court.

(e)(1) Each court clerk shall charge and collect an electronic traffic citation fee of five dollars ($5.00) for each traffic citation resulting in a conviction. Such fee shall be assessable as court costs and paid by the defendant for any offense cited in a traffic citation delivered that results in a plea of guilty or nolo contendere, or a judgment of guilty. This fee shall be in addition to all other fees, taxes and charges. One dollar ($1.00) of such fee shall be retained by the court clerk. The remaining four dollars ($4.00) of the fee shall be transmitted monthly by the court clerk to the law enforcement agency that prepared the traffic citation that resulted in a plea of guilty or nolo contendere, or a judgment of guilty.

(2) All funds derived from the electronic traffic citation fee that are transmitted to the law enforcement agency that prepared the traffic citation pursuant to subdivision (e)(1) shall be accounted for in a special revenue fund of such law enforcement agency and may only be used for the following purposes:

(A) Electronic citation system and program related expenditures; and
(B) Related expenditures by such local law enforcement agency for technology, equipment, repairs, replacement and training to maintain electronic citation programs.

(3) All funds derived from the electronic citation fee set aside for court clerks pursuant to subdivision (e)(1) shall be used for computer hardware purchases, usual and necessary computer related expenses, or replacement. Such funds shall be preserved for those purposes and shall not revert to the general fund at the end of a budget year if unexpended.

(4) The local legislative body of any county or municipality may, by majority vote, adopt a resolution or ordinance to authorize a county or
municipal court clerk to charge and collect electronic traffic citation fees pursuant to this subsection (e). Any electronic traffic citation fee imposed pursuant to an ordinance or resolution under this subdivision (e)(4) shall terminate five (5) years from the date on which the ordinance or resolution is adopted.

(f) Prior to the time set for the person to appear in court to answer the charge, the person cited may elect not to contest the charge and may, in lieu of appearance in court, submit the fine and costs to the clerk of the court. The submission to fine must be with the approval of the court that has jurisdiction of the offense within the county in which the offense charged is alleged to have been committed. The submission to fine shall not otherwise be exclusive of any other method or procedure prescribed by law for disposition of a traffic citation that may be issued for a violation of any provision of this chapter or chapter 8, 9, or 50 of this title or § 55-12-139 or chapter 4, part 4 of this title.

(g) If the person cited has not paid the traffic citation upon submission to fine as provided in this section and the person cited fails to appear in court at the time specified, or such later date as may be fixed by the court, the court may issue a warrant for the person’s arrest or may declare a judgment of forfeiture for the offense charged. The judgment of forfeiture shall in no case be more than the total amount of fine and costs prescribed by law for the offense and may be collected in the manner provided in § 40-24-105.

(h)(1) This section shall not be applicable to any person arrested for a violation of any of the offenses enumerated in § 55-10-203, or to any person arrested for a violation of any provision of this chapter or chapter 8, 9 or 50 of this title that is punishable by a fine of more than fifty dollars ($50.00) or by imprisonment for more than thirty (30) days. This section shall not supersede § 40-7-118, nor shall it require the use of a traffic citation in lieu of arrest in any of the circumstances specified in § 40-7-118(d).

(2) This section shall not be applicable to a person who is subject to arrest pursuant to § 55-10-119.

(i) Notwithstanding any other law to the contrary, all traffic citations used in Tennessee shall contain, as a minimum, the following information:

(1) Citation number;
(2) Violator’s first name, middle name or middle initial, last name and date of birth;
(3) Violator’s driver license number, state of issuance and class of the license;
(4) Whether or not the license is a commercial driver license;
(5) The vehicle make, model, year, color, and owner;
(6) The license plate number, year, and state of issuance;
(7) Whether or not the vehicle is a commercial motor vehicle;
(8) Whether or not the vehicle is transporting hazardous materials requiring placards;
(9) Whether or not the vehicle can transport sixteen (16) or more passengers;
(10) The offense committed, including the date and time, if applicable;
(11) The location of the offense;
(12) The issuing officer’s name, rank, badge/ID number, and employing agency; and
(13) The time, date, location, and court where the offense will be heard.

(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 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) Any person violating § 55-10-401, upon conviction for a fifth offense, shall be sentenced as a Class D felon and shall be sentenced to serve not 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 D felony. This
subdivision (a)(5) applies if the person:

(i) Has at least four (4) previous convictions for violations of § 55-10-401, or any other applicable prior conviction as described in § 55-10-405(c);
(ii) Commits a fifth violation of § 55-10-401; and
(iii) Commits the fifth violation on or after July 1, 2019.

(B) In addition to the required term of imprisonment for a fifth 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 fifth offender.

(6)(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)(6) 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)(6) 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, as defined in § 40-11-152. 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 system for which the person has the ability to pay, as determined by the court. Any portion of the costs of such a system that the person is unable to pay shall come from the electronic monitoring indigency fund established pursuant to § 55-10-419, subject to the availability of funds; 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. The sheriff or chief administrative officer of a local jail or workhouse may use alternative facilities for the incarceration of an offender convicted of a violation of § 55-10-401.

(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 depart-
ment 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, as defined in § 40-11-152. 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 system for which the person has the ability to pay, as determined by the court. Any portion of the costs of such a system that the person is unable to pay shall come from the electronic monitoring indigency fund established pursuant to § 55-10-419, subject to the availability of funds; 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.

(a) Except as provided in subsection (c), for the sole purpose of enhancing the punishment for a violation a person who is convicted of a violation of § 55-10-401 shall not be considered a repeat or multiple offender and subject to the penalties prescribed in this part if ten (10) or more years have elapsed between the date of the present violation and the date of any immediately preceding violation of § 55-10-401 that resulted in a conviction for such offense. If, however, the date of a person’s violation of § 55-10-401 is within ten (10) years of the date of the present violation, then the person shall be considered a multiple offender and is subject to the penalties imposed upon multiple offenders by this part. If a person is considered a multiple offender under this part, then every violation of § 55-10-401 that resulted in a conviction for such offense occurring within ten (10) years of the date of the immediately preceding violation shall be considered in determining the number of prior offenses. However, a violation occurring more than twenty (20) years from the date of the instant violation shall never be considered a prior offense for that purpose.

(b) If a person is convicted of a violation of § 55-10-401 in this state, for purposes of determining if the person is a multiple offender, the state may use a conviction for an offense committed in another state that would constitute the offense of 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), or aggravated vehicular homicide under § 39-13-218, if committed in this state. If an offense in a jurisdiction other than this state is not identified as one (1) of the offenses named in this subsection (b), it shall be considered a prior conviction if the elements of the offense are the same as the elements of the comparable offense in this state.

(c) For purposes of determining if a person convicted of a violation of § 55-10-401 is a multiple offender, a prior conviction for 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 shall be treated the same as a prior conviction for driving under the influence of an intoxicant under § 55-10-401; provided, the person was convicted of the prior offense at any time before committing the present violation of § 55-10-401, regardless of whether the prior offense occurred within ten (10) years of the date of the present violation.

(d) A certified computer printout of the official driver record maintained by the department of safety shall constitute prima facie evidence of any prior conviction. Following indictment by a grand jury, the defendant shall be given a copy of the department of safety printout at the time of arraignment. If the charge is by warrant, the defendant is entitled to a copy of the department printout at the defendant’s first appearance in court or at least fourteen (14) days prior to a trial on the merits. If the defendant alleges error in the driving record in a written motion, the court may require that a certified copy of the judgment be provided for inspection by the court as to validity prior to the introduction of the department printout into evidence.
55-10-406. Breath and blood tests to determine alcohol or drug content of a person's blood.

(a)(1) A law enforcement officer who has probable cause to believe that the operator of a motor vehicle is driving while under the influence of any intoxicant, controlled substance, controlled substance analogue, drug, substance affecting the central nervous system, or combination thereof as prohibited by § 55-10-401, or committing the offense of vehicular assault under § 39-13-106, aggravated vehicular assault under § 39-13-115, vehicular homicide under § 39-13-213(a)(2), or aggravated vehicular homicide under § 39-13-218, may request that the operator of the vehicle submit to test or tests for the purpose of determining the alcohol or drug content, or both, of that operator's blood.

(2) [Deleted by 2019 amendment.]

(b)(1) Breath tests may be administered under the following circumstances:
   (A) The operator's implied consent to submit to breath tests pursuant to subdivision (d)(1);
   (B) The operator's consent to submit to breath tests;
   (C) A search warrant;
   (D) Incident to a lawful arrest for any of the offenses set out in subsection (a); or
   (E) When breath tests are required to be administered pursuant to subdivision (c)(1).

(2) Blood tests may be administered under the following circumstances:
   (A) The operator's implied consent to submit to blood tests pursuant to subdivision (d)(1);
   (B) The operator's consent to submit to blood tests;
   (C) A search warrant;
   (D) Without the consent of the operator if exigent circumstances to the search warrant requirement exist; or
   (E) When blood tests are required to be administered pursuant to subdivision (c)(2) and with a search warrant or without a warrant, if exigent circumstances to the search warrant requirement exist.

(c)(1)(A) A law enforcement officer shall administer or cause to be administered breath tests for the purpose of determining the alcohol content of the operator's blood if the officer has appropriate testing equipment available and has probable cause to believe that one (1) or more of the events in subdivision (c)(2)(A) have occurred;

   (B) A law enforcement officer shall administer or cause to be administered blood tests for the purpose of determining the alcohol or drug content of the operator's blood if one (1) or more of the requirements for blood tests set out in subdivision (b)(2) are present and the officer has probable cause to believe that one (1) or more of the events in subdivision (c)(2)(A) have occurred; and

   (C) A law enforcement officer administering breath or blood tests shall decide whether to administer or cause to be administered breath tests, blood tests, or both tests, for determining the alcohol or drug content of the operator's blood.

(2)(A) A law enforcement officer shall administer or cause to be administered breath tests, blood tests, or both tests, pursuant to subdivision (c)(1) if the operator:
(i) Has been involved in a collision resulting in the injury or death of another and the operator of the vehicle has committed a violation of § 39-13-106, § 39-13-115, § 39-13-213(a)(2), § 39-13-218, or § 55-10-401;

(ii) Has committed a violation of § 39-13-106, § 39-13-115, § 39-13-213(a)(2), § 39-13-218, or § 55-10-401; and a passenger in the motor vehicle is a child under eighteen (18) years of age; or

ted vehicular homicide under § 39-13-218, or driving under the influence of an intoxicant under § 55-10-401.

(B) The blood tests required to be administered under subdivision (c)(1)(B) shall be performed in accordance with the procedure set forth in this section and § 55-10-408, and shall be performed, pursuant to a search warrant as described in subdivision (b)(2)(C) or if exigent circumstances to the search warrant requirement exist as described in subdivision (b)(2)(D), regardless of whether the operator consents to the tests.

(C) The results of breath or blood tests required by subdivision (c)(2)(A) may be offered as evidence by either the state or the operator of the vehicle in any court, administrative hearing, or official proceeding relating to the collision or offense, subject to the Tennessee Rules of Evidence.

(d)(1) The operator of a motor vehicle in this state is deemed to have given implied consent to breath tests, blood tests, or both tests, for the purpose of determining the alcohol or drug content of that operator’s blood. However, no such tests may be administered pursuant to this section unless conducted at the direction of a law enforcement officer having probable cause to believe the operator was in violation of one (1) or more of the offenses set out in subsection (a) and the operator signs a standardized waiver developed by the department of safety and made available to law enforcement agencies.

(2) Any law enforcement officer who requests that the operator of a motor vehicle submit to breath tests, blood tests, or both tests, authorized pursuant to subsection (a), shall, prior to conducting the test, advise the operator that refusal to submit to the tests:

(A) Will result in the suspension by the court of the operator’s driver license; and

(B) May result, depending on the operator’s prior criminal history, in the operator being required to operate only a motor vehicle equipped with a functioning ignition interlock device, if the operator is convicted of a violation of § 55-10-401, as described in § 55-10-405.

(3) If the operator is not advised of the consequences of the refusal to submit to breath tests, blood tests, or both tests, the court having jurisdiction over the offense for which the operator was placed under arrest shall not have the authority to suspend the license of an operator or require the operator to operate only a motor vehicle equipped with a functioning ignition interlock device pursuant to § 55-10-417 for a violation of this subsection (d).
(4) Except as may be required by a search warrant or other court order, if the operator is placed under arrest, requested by a law enforcement officer to submit to breath tests, blood tests, or both tests, advised of the consequences for refusing to do so, and refuses to submit, the operator shall be charged with violating subdivision (d)(1). The determination as to whether an operator violated subdivision (d)(1) shall be made:

(A) At the same time and by the same court as the court disposing of the offense for which the operator was placed under arrest, upon an oral or written motion of the state; or

(B) At the operator's first appearance or preliminary hearing in the general sessions court, but no later than the case being bound over to the grand jury, if the state does not make a motion pursuant to subdivision (d)(4)(A).

(e)(1)(A) If blood tests of the operator of a motor vehicle are authorized pursuant to this section, a qualified practitioner who, acting at the written request of a law enforcement officer, withdraws blood from an operator for the purpose of conducting tests to determine the alcohol or drug content in an operator's blood, will not incur any civil or criminal liability as a result of the withdrawing of the blood, except for any damages that may result from the negligence of the person so withdrawing.

(B) Neither the hospital nor other employer of a qualified practitioner listed in subdivision (e)(2) will incur any civil or criminal liability as a result of the act of withdrawing blood from any operator, except in the case of negligence.

(2) For purposes of this section, a “qualified practitioner” is a:

(A) Physician;

(B) Registered nurse;

(C) Licensed practical nurse;

(D) Clinical laboratory technician;

(E) Licensed paramedic;

(F) Licensed emergency medical technician approved to establish intra-venous catheters;

(G) Technologist;

(H) A trained phlebotomist who is operating under a hospital protocol, has completed phlebotomy training through an educational entity providing such training, or has been properly trained by a current or former employer to draw blood; or

(I) Physician assistant.

(f) Any operator who is unconscious as a result of a collision, is unconscious at the time of arrest or apprehension, or is otherwise in a condition rendering the operator incapable of refusal, shall not be subjected to blood tests unless law enforcement has obtained a search warrant or exigent circumstance exceptions to a search warrant apply.

(g) Provided probable cause exists for criminal prosecution for any of the offenses specified in subsection (a), nothing in this section affects the admissibility into evidence in a criminal prosecution of any analysis of the alcohol or drug content of the defendant’s blood that was not compelled by law enforcement but was obtained while the defendant was hospitalized or otherwise receiving medical care in the ordinary course of medical treatment.

(h) Nothing in this section affects the admissibility in evidence, in criminal prosecutions for vehicular assault under § 39-13-106, vehicular homicide
under § 39-13-213(a)(2), aggravated vehicular assault under § 39-13-115, or
aggravated vehicular homicide under § 39-13-218, of any analysis of the
alcohol or drug content of the defendant’s blood that has been obtained in
accordance with this section and tested according to § 55-10-408.

(i) Nothing in this section affects the admissibility in evidence, in criminal
prosecutions for any of the offenses set out in subsection (a), of any analysis of
the alcohol or drug content of the defendant’s blood that has been obtained by
consent and tested according to § 55-10-408.

(j) The results of blood tests or breath tests authorized and conducted in
accordance with this section and § 55-10-408:

(1) Shall be reported in writing by the person making the analysis, shall
have noted on the report the time at which the sample analyzed was
obtained from the operator, and shall be made available to the operator, upon
request; and

(2) Shall be admissible in evidence at the trial of any person charged with
an offense specified in subsection (a).

(k) The fact that a law enforcement officer failed to request that the operator
charged with an offense specified in subsection (a) submit to blood or breath
tests is admissible as evidence at the trial of the charged offense.

(l) As used in this section, “operator” means any person driving or in
physical control of any automobile or other motor-driven vehicle as described
and prohibited by § 55-10-401.


(a) If the court finds that the driver violated § 55-10-406, the driver is not
considered as having committed a criminal offense; provided, however, that the
court shall revoke the license of the driver for a period of:

(1) One (1) year, if the person does not have a prior conviction as defined
in subsection (e);

(2) Two (2) years, if the person does have a prior conviction as defined in
subsection (e);

(3) Two (2) years, if the court finds that the driver involved in a collision,
in which one (1) or more persons suffered serious bodily injury, violated
§ 55-10-406 by refusing to submit to such a test or tests; and

(4) Five (5) years, if the court finds that the driver involved in a collision
in which one (1) or more persons are killed, violated § 55-10-406 by refusing
to submit to such a test or tests.

(b) If a person’s driver license is suspended for a violation of § 55-10-406
prior to the time the offense for which the driver was arrested is disposed of,
the court disposing of such offense may order the department of safety to
reinstate the license if:

(1) The person’s driver license is currently suspended for an implied
consent violation and the offense for which the driver was arrested resulted
from the same incident; and

(2) The offense for which the person was arrested is dismissed by the
court upon a finding that the law enforcement officer lacked sufficient cause
to make the initial stop of the driver’s vehicle.

(c) The period of license suspension for a violation of § 55-10-406 runs
consecutive to the period of license suspension imposed following a conviction
for § 55-10-401 if:
(1) The general sessions court or trial court judge determines that the driver violated § 55-10-406; and

(2) The judge determining the violation of § 55-10-406 finds that the driver has a conviction or juvenile delinquency adjudication for a violation that occurred within five (5) years of the violation of § 55-10-406 for:

(A) Implied consent under § 55-10-406;

(B) Underage driving while impaired under § 55-10-415;

(C) The open container law under § 55-10-416; or

(D) Reckless driving under § 55-10-205, if the charged offense was § 55-10-401.

(d) Any person who violates § 55-10-406 by refusing to submit to either test or both tests, pursuant to § 55-10-406(d)(4), shall be charged by a separate warrant or citation that does not include any charge of violating § 55-10-401 that may arise from the same occurrence.

(e)(1) For the purpose of determining the license suspension period under subsection (a), a person who is convicted of a violation of § 55-10-401 is not to be considered a repeat or multiple offender and subject to the penalties prescribed in subsection (a) if ten (10) or more years have elapsed between the date of the present violation and the date of any immediately preceding violation of § 55-10-401 that resulted in a conviction for such offense. If, however, the date of a person’s violation of § 55-10-401 is within ten (10) years of the date of the present violation, then the person shall be considered a multiple offender and is subject to the penalties imposed upon multiple offenders by this part. If a person is considered a multiple offender under this part, then every violation of § 55-10-401 that resulted in a conviction for such offense occurring within ten (10) years of the date of the immediately preceding violation is considered in determining the number of prior offenses. However, a violation occurring more than twenty (20) years from the date of the instant violation is never considered a prior offense for that purpose.

(2) For the purpose of determining the license suspension period under subsection (a), the state shall use a conviction for the offense of driving under the influence of an intoxicant, vehicular homicide involving an intoxicant, vehicular assault involving an intoxicant, aggravated vehicular homicide involving an intoxicant, or aggravated vehicular assault involving an intoxicant that occurred in another state or territory, as defined in § 55-10-405.

(3) For the purpose of determining the license suspension period under subsection (a), a prior conviction for the offense of vehicular assault under § 39-13-106, aggravated vehicular assault under § 39-13-115, vehicular homicide under § 39-13-213(a)(2), or aggravated vehicular homicide under § 39-13-218 is treated the same as a prior conviction for a violation of driving under the influence of an intoxicant under § 55-10-401.

55-10-408. 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(e)(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.

55-10-418. 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 judiciary 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.

(a)(1)(A)(i) There is created in the state treasury a fund known as the electronic monitoring indigency fund. The fund shall be composed of two (2) accounts, each of which shall be used for one (1) of the following purposes:

(a) The eligible 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 for persons determined by the court to be indigent; and

(b) The eligible costs associated with the use of a transdermal monitoring device, other alternative alcohol or drug monitoring device, or global positioning monitoring device, if required by the court pursuant to § 40-11-152, § 55-10-402(d)(2)(A)(iii) or (h)(7), or any other statute specifically authorizing payment under this section, for persons determined by the court to be indigent.

(ii) The money in the two (2) accounts created by subdivision (a)(1)(A)(i) may be commingled for investment purposes, but will be accounted for separately with separate accounting for each account’s principal and income. The account for ignition interlock devices shall contain state-appropriated monies as well as a portion of the fees assessed in accordance with this section and as provided in other applicable law. The account for other monitoring devices, as provided in subdivision (a)(1)(A)(i)(b), shall contain excess funds from the ignition interlock account as well as money from each local government that chooses to utilize this fund, and may contain state-appropriated monies. The treasurer is authorized to transfer money from one (1) account to the other to pay for eligible devices.

(B) Notwithstanding subdivision (a)(1)(A), 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)(a), or other monitoring device pursuant to subdivision (a)(1)(A)(i)(b).

(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) In the event that the state treasurer determines or anticipates that the electronic monitoring indigency fund has or will have insufficient funds to pay for eligible claims or invoices as they are received, the state treasurer is authorized to stop accepting, determining eligibility for, or paying claims or invoices submitted by providers of ignition interlock devices, transdermal monitoring devices, other alternative alcohol or drug monitoring devices, or global positioning monitoring devices for a period of time determined by the state treasurer. The state treasurer may begin accepting or paying claims or invoices submitted by providers of ignition interlock devices, transdermal monitoring devices, other alternative alcohol or drug monitoring devices, or global positioning monitoring devices with service dates on or after the date on which the state treasurer determines that there is a sufficient amount of money in the fund. The state treasurer shall notify providers and the administrative office of the courts of the anticipated date that provider claims and invoices will be accepted and paid from the fund again. The state treasurer may establish an order of priority for paying claims and invoices from the fund after the period of insolvency.

(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, other alternative alcohol or drug monitoring device, or global positioning monitoring device, if required by the court pursuant to
§ 40-11-152 or § 55-10-402(d)(2)(A)(iii) or (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) Fifty percent (50%) 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

(ii) Fifty percent (50%) 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.

(i) The money in the electronic monitoring indigency fund’s ignition interlock account shall be used to pay for eligible costs associated with ignition interlock devices, and the money in the account for transdermal monitoring devices, other alternative drug and alcohol monitoring devices, and global positioning monitoring devices shall pay for eligible costs associated with such devices, subject to the treasurer’s ability to transfer funds between the two (2) accounts. Periodically, the treasurer shall determine whether there is excess money in the fund’s ignition interlock account that may be transferred to the account for transdermal monitoring devices, other alternative drug and alcohol monitoring devices, and global positioning monitoring devices to pay for costs associated with such devices. If there is no excess money, the treasurer shall not pay eligible claims or invoices for transdermal monitoring devices, other alternative drug and alcohol monitoring devices, and global positioning monitoring devices until there is excess money in the ignition interlock account to be transferred to the transdermal monitoring device, other alternative drug and alcohol monitoring device, and global positioning monitoring device account, or until the state appropriates monies in the transdermal monitoring device, other alternative drug and alcohol monitoring device, and global positioning monitoring device account.

(j) No later than a date certain established by the treasurer, each local government shall have the option to participate in the transdermal monitoring device, other alternative drug and alcohol monitoring device, and global positioning monitoring device account by having the costs for eligible devices paid from the fund for each local government’s indigent defendants. The local government shall demonstrate participation through a resolution legally adopted and approved by the local government’s legislative body providing acceptance of the liability associated with participation and containing the maximum liability that the local government commits to its participation in the fund. For each subsequent year of participation and no later than a date certain established by the treasurer, the local government shall notify the treasurer of the budgeted amount that is approved for participation in the fund within thirty (30) days from when a budget is approved by the local legislative body and shall provide a copy of the approved budget to the treasurer. The state will provide funds matching each local government’s maximum liability or budgeted amount for participation in the fund, subject to an appropriation by the state. Each participating local government will pay fifty percent (50%) of the costs associated with transdermal monitoring devices, other alternative drug and alcohol monitoring devices, and global positioning monitoring devices for indigent defendants within the local government’s jurisdiction, and the state will match the local government’s cost by providing the other fifty percent (50%) of funding.

(k) In obtaining money from participating local governments, the state may either bill the local governments for costs associated with eligible devices or draw revenue from the local government’s state-shared taxes.

(l) In paying claims or invoices for indigent defendants in a participating city or county, the state shall only pay for the costs associated with transdermal monitoring devices, other alternative drug and alcohol monitoring devices, and global positioning monitoring devices when the local government has remitted fifty percent (50%) of the total eligible costs to the state.

(m) A local government may withdraw from participation in the transfer-
mal monitoring device, other alternative drug and alcohol monitoring device, and global positioning monitoring device account at any time and reenter as a participant within the time frame established by the treasurer. After a local government’s withdrawal from participation, the local government shall continue to pay all outstanding liabilities for eligible devices.

(n) The electronic monitoring indigency fund shall be administered by the treasurer. Through the administration of the fund, the treasurer shall have the authority to:

1. Determine that the money is paid out of the fund for eligible devices and offenses pursuant to applicable laws and rules; and
2. Promulgate rules pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, for the administration of the fund.

(o) For the efficient administration of the fund, providers of ignition interlock devices, transdermal monitoring devices, other alternative drug and alcohol monitoring devices, and global positioning monitoring devices shall:

1. Submit a claim to the treasurer electronically on a form prescribed by the treasurer no later than ninety (90) calendar days after the device has been ordered by the court accompanied by:
   A. The court order requiring the device;
   B. The affidavit of indigency; and
   C. An attestation from the provider for each claim indicating that the charges contained in the claim are true and accurate and do not contain duplicate claims or charges previously submitted to the treasurer for reimbursement;
2. Submit invoices to the treasurer no later than one hundred eighty (180) calendar days from the date of service;
3. Submit amendments to documents previously submitted or new documentation in support of a claim or invoice to the treasurer no later than ninety (90) calendar days after the provider’s receipt of the amended or new documentation; and
4. Submit any additional information or complete any additional forms requested by the treasurer.

(p) The provider shall ensure that the court orders submitted to the treasurer do not contain handwritten changes and are submitted on a uniform court order prescribed by the treasurer.

(q) If a provider filing a claim or invoice for reimbursement from the fund knowingly makes a false, fictitious, or fraudulent statement or representation, or knowingly submits false, fictitious, or fraudulent documentation or information to the treasurer for reimbursement, the provider may be liable under the False Claim Act compiled in title 4, chapter 18.

(r) If a provider is overpaid from the fund for any reason, the treasurer is authorized to exercise a right of set-off against any amount due to the provider from the fund.

55-10-601. Petition for reinstatement of license by motor vehicle habitual offender. [Contingent effective date, See Compiler’s Notes.]

A person whose driver license has been revoked or restricted due solely to the person’s status as a motor vehicle habitual offender prior to July 1, 2019, may petition the court that originally made such a finding to reinstate the person’s
driver license. Upon receiving a petition for a reinstated driver license, the court shall determine whether the person’s driver license was subject to revocation or restriction under prior law due solely to the person’s status as a motor vehicle habitual offender and, if so, order the reinstatement of the person’s driver license. The person may provide a copy of the court's order to the department of safety, which shall then reissue the person’s driver license without restriction.

55-12-139. Compliance with financial responsibility law required — Evidence of compliance — Issuance of citations by police service technicians.

(a) This part shall apply to every vehicle subject to the registration and certificate of title provisions.

(b)(1)(A) At the time a driver of a motor vehicle is charged with any violation under chapters 8 and 10, parts 1-5, and chapter 50 of this title; chapter 9 of this title; any other local ordinance regulating traffic; or at the time of an accident for which notice is required under § 55-10-106, an officer shall request evidence of financial responsibility as required by this section.

(B) In case of an accident for which notice is required under § 55-10-106, the officer shall request evidence of financial responsibility from all drivers involved in the accident without regard to apparent or actual fault.

(C) If the driver of a motor vehicle fails to show an officer evidence of financial responsibility, or provides the officer with evidence of a motor vehicle liability policy as evidence of financial responsibility, the officer shall utilize the vehicle insurance verification program as defined in § 55-12-203 and may rely on the information provided by the vehicle insurance verification program, for the purpose of verifying evidence of liability insurance coverage.

(2) For the purposes of this section, “financial responsibility” means:

(A) Documentation, such as the declaration page of an insurance policy, an insurance binder, or an insurance card from an insurance company authorized to do business in this state, whether in paper or electronic format, stating that a policy of insurance meeting the requirements of this part has been issued;

(B) A certificate, valid for one (1) year, issued by the commissioner of safety, stating that:
   (i) A cash deposit or bond in the amount required by this part has been paid or filed with the commissioner of revenue; or
   (ii) The driver has qualified as a self-insurer under § 55-12-111; or

(C) The motor vehicle being operated at the time of the violation was owned by a common carrier subject to the jurisdiction of the department of safety or the interstate commerce commission, or was owned by the United States, this state, or any political subdivision thereof, and that the motor vehicle was being operated with the owner’s consent.

(c)(1) It is an offense to fail to provide evidence of financial responsibility pursuant to this section.

(2) Except as provided in subdivision (c)(3), a violation of subdivision (c)(1) is a Class C misdemeanor punishable only by a fine of not more than three hundred dollars ($300).

(3)(A) A violation of subdivision (c)(1) is a Class A misdemeanor, if a person is not in compliance with the financial responsibility requirements of this part at the time of an accident resulting in bodily injury or death.
and such person was at fault for the accident.

(B) For purposes of subdivision (c)(3)(A), a person is at fault for an accident if the person acted with criminal negligence, as defined in § 39-11-106, in the operation of such person’s motor vehicle.

(C) A violation of subdivision (c)(1) is a Class A misdemeanor, if a person acts to demonstrate financial responsibility as required by this section by providing proof of motor vehicle liability insurance that the person knows is not valid.

(4) If the driver of a motor vehicle fails to provide evidence of financial responsibility pursuant to this section, an officer may tow the motor vehicle as long as the officer’s law enforcement agency has adopted a policy delineating the procedure for taking such action.

(d) The fines imposed by this section shall be in addition to any other fines imposed by this title for any other violation under this title.

(e)(1) On or before the court date, the person so charged may submit evidence of financial responsibility at the time of the violation. If it is the person’s first violation of this section and the court is satisfied that the financial responsibility was in effect at the time of the violation, the charge of failure to provide evidence of financial responsibility shall be dismissed. Upon the person’s second or subsequent violation of this section, if the court is satisfied that the financial responsibility was in effect at the time of the violation, the charge of failure to provide evidence of financial responsibility may be dismissed. Any charge that is dismissed pursuant to this subsection (e) shall be dismissed without costs to the defendant and no litigation tax shall be due or collected, notwithstanding any law to the contrary.

(2) A person who did not have financial responsibility that was in effect at the time of being charged with a violation of subsection (c) shall not have that person’s violation of subsection (c) dismissed.

(f)(1) Notwithstanding any law to the contrary, in any county having a population in excess of seven hundred fifty thousand (750,000), according to the 2000 federal census or any subsequent federal census, police service technicians are authorized to issue traffic citations in lieu of arrest pursuant to § 55-10-207.

(2) For the purposes of subdivision (f)(1) only, “police service technician” means a person appointed by the director of police services, who responds to requests for service at accident locations and obtains information, investigates accidents and provides other services to assist the police unit, fire unit, ambulance, emergency rescue and towing service.

(g) For purposes of this section, acceptable electronic formats include display of electronic images on a cellular phone or any other type of portable electronic device.

(h) If a person displays the evidence in an electronic format pursuant to this section, the person is not consenting for law enforcement to access any other contents of the electronic device.
55-16-107. Garagekeepers and towing firms authorized to enforce lien.

(a) Notwithstanding any other provision of this chapter to the contrary, the police department through its chief officer, after complying with § 55-16-105, may execute a written waiver of its right to sell a vehicle taken into custody under this chapter in favor of a garagekeeper or towing firm in whose possession the vehicle was lawfully placed by the police department under this chapter. If a garagekeeper or towing firm has made repairs to a vehicle for which a waiver has been executed, the garagekeeper or towing firm may proceed to enforce the lien as provided in § 66-19-103. If the garagekeeper or towing firm has not made repairs to a vehicle for which a waiver has been executed, the garagekeeper or towing firm may proceed to sell the vehicle in accordance with the procedure established in § 55-16-106.

(b) As to third-party purchasers, the sale of the abandoned, immobile, or unattended vehicle shall be valid, but the garagekeeper or towing firm shall sell the vehicle in a commercially reasonable manner, and failure to do so may subject the garagekeeper or towing firm to suit for monetary damages by either the true owner or a lienholder.

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 eleven (11) 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;
7. One (1) private citizen, to be elected by the board who is not affiliated with any of the above listed entities;
8. One (1) individual, to be appointed by the Tennessee Trucking Association; and
9. One (1) individual, to be appointed by the American Car Rental Association.

(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.

55-17-120. Exception to licensing requirements.

(a) Notwithstanding this part, when motor vehicles of the state are being sold at an automobile auction sale, no license as a motor vehicle dealer shall be required for any person or participant who purchases or bids on the vehicles of the state. This person shall not participate in the sales of any other motor vehicles without being licensed as required by this part, except as provided in § 55-17-102(1)(C).

(b)(1) Notwithstanding this part to the contrary, whenever heavy construction equipment is being sold at auction, no license as a motor vehicle dealer shall be required for any person or participant who purchases or bids at the auction on any motor vehicle, having three (3), four (4), or five (5) axles that is designed to unload itself and that transports crushed stone, fill dirt and rock, soil, bulk sand, coal, phosphate muck, asphalt, concrete, and other building materials. In addition, no license as a motor vehicle dealer shall be required for any person or participant who purchases or bids at the auction on any motor vehicle, including cars, pick-up trucks, flat bed trucks having two (2) or more axles, service trucks, two-axle dump trucks, or any other vehicle used by the contractor for whose benefit the auction is held or by any other contractor offering such equipment or motor vehicles for sale from the contractor's fleet at the auction. The auction shall not be an automobile auction within this part if the sale of the motor vehicles is incidental to the sale of the heavy construction equipment, and the person conducting the auction need only be licensed as an auctioneer as required by title 62,
chapter 19. Notice of the auction shall be given to the motor vehicle commission at least two (2) weeks prior to the auction. The total value of all motor vehicles sold at the auction shall not exceed ten percent (10%) of the sales prices of all equipment sold at the auction.

(2)(A) In addition to subdivision (b)(1), no motor vehicle dealer license shall be required for the operator of a permanent auction facility that has been in continuous operation for at least two (2) years prior to January 1, 2008, and that:

(i) Sells large construction equipment in an auction format;
(ii) Has sales of used motor vehicles whose total value does not exceed fifteen percent (15%) of the total value of all equipment sold, including motor vehicles, as calculated on an annual basis;
(iii) Maintains a regularly staffed facility during normal business hours of not less than thirty (30) hours per week;
(iv) Has a permanent facility with at least fifty (50) contiguous fenced acres located in this state;
(v) Has titles present for all vehicles to be sold by auction at the facility;
(vi) Conducts, at the facility, not more than five (5) such auctions in a calendar year, one (1) of which may be a “vehicles only” auction;
(vii) Does not sell new or unused motor vehicles, or vehicles with a manufacturer’s statement of origin only; and
(viii) Sells, at the facility, only motor vehicles that:
   (a) Weigh in excess of ten thousand pounds (10,000 lbs.) gross vehicle weight rating (GVWR); or
   (b) Weigh less than ten thousand pounds (10,000 lbs.) gross vehicle weight rating (GVWR) if owned by an entity that used the motor vehicle in its normal business operation as either a construction or common carrier or transportation-related entity hauling freight.

(B) The auction shall file with the motor vehicle commission on an annual basis a certification stating:

(i) That all such vehicles sold were not vehicles covered under the Tennessee Consumer Protection Act, compiled in title 47, chapter 18, part 1; and
(ii) The gross proceeds of the auction and the value of all vehicles sold at the auction.

(c)(1) Notwithstanding this part to the contrary, whenever farm equipment and machinery, as defined in § 67-6-102, is being sold at an auction conducted on farm property in accordance with the requirements set forth within subdivision (c)(2), no license as a motor vehicle dealer shall be required for any person or participant who purchases or bids at the auction on a motor vehicle.

(2) If the sale at auction, on property owned or possessed by the farmer, of five (5) or fewer motor vehicles is incidental to the sale at auction of farm equipment and machinery owned and used by the farmer, and if each such motor vehicle is owned for at least one (1) year by the farmer, the farmer’s parents, or the farmer’s children, and if each such motor vehicle is at least two (2) model years old, and if the farmer has not sold motor vehicles at an auction within the previous twelve-month period, then the auction shall not be an automobile auction within this part, and the person conducting the auction need only be licensed as an auctioneer by the auctioneer commission;
provided, that the auctioneer must give at least fourteen (14) days’ advance written notification to the motor vehicle commission describing the time and place of the auction as well as the items to be sold therein.

(d)(1) Notwithstanding this part to the contrary, a motor vehicle dealer license shall not be required to purchase nonrepairable vehicles, salvage vehicles, or a combination of nonrepairable and salvage vehicles from an automobile auction if the automobile auction primarily sells motor vehicles on consignment.

(2) A natural person who resides in this state may purchase at retail no more than five (5) nonrepairable vehicles or salvage vehicles, or any combination thereof, within a twelve-month period.

(3) Each automobile auction engaged in the sale of nonrepairable vehicles, salvage vehicles, or a combination of nonrepairable and salvage vehicles, shall:

(A) Keep an electronic record of all sales of each vehicle and include in the record the make, model, year, vehicle identification number, and the name and address of the purchaser and seller of the vehicle;

(B) Obtain from the purchaser of each vehicle a copy of the purchaser’s driver license, passport, or other government-issued identification. The automobile auction shall maintain each copy obtained under this subdivision (d)(3)(B) for a period of two (2) years from the date of obtaining the copy; and

(C) Obtain from the purchaser of each vehicle a copy of any license or other authorization required to do business under this chapter or, if the purchaser represents a third party authorized to purchase the vehicle under this chapter, a copy of the third party’s license or other authorization required to do business under this chapter and a copy of any document authorizing the purchaser to act on behalf of the third party. The automobile auction shall maintain each copy obtained under this subdivision (d)(3)(C) for a period of two (2) years from the date of obtaining the copy.

(4) Each automobile auction required to maintain records pursuant to subdivision (d)(3) shall make the records available, upon written request, to:

(A) Law enforcement officers;

(B) The department of revenue; or

(C) The motor vehicle commission.

(5) This subsection (d) shall not limit:

(A) The sale of nonrepairable vehicles or salvage vehicles to a person who resides outside of this state; or

(B) The sale of nonrepairable vehicles or salvage vehicles titled in a state or jurisdiction other than this state.

(6) A violation of this subsection (d) is a Class A misdemeanor, punishable by a fine of no less than one thousand dollars ($1,000) and no more than two thousand five hundred dollars ($2,500).

(7) An action to impose any penalty under this subsection (d) may be brought in any court of competent jurisdiction by a district attorney or the attorney general and reporter.

(8) Monies generated from any fine imposed pursuant to subdivision (d)(6) shall be used only for purposes of enforcement, investigation, prosecution, and training as those purposes relate to violations of this subsection (d).

(9) As used in this subsection (d):
(A) “Nonrepairable vehicle” has the same meaning as defined in § 55-3-201; and

(B) “Salvage vehicle” has the same meaning as defined in § 55-3-201.

(e) When motor vehicles are sold incidentally at a bona fide going-out-of-business sale, no license as a motor vehicle dealer is required to sell the vehicles at auction if:

(1) All vehicles for sale were owned and titled in the name of the business for at least one (1) year prior to the going-out-of-business sale;

(2) The auctioneer gives a fourteen-day prior written notification to the motor vehicle commission providing the time and place of the sale and a list of items to be sold; and


55-21-104. Symbol of access for registrations, placards, decals, and license plates for drivers or passengers with disability.

[Effective on July 1, 2020. See the version effective until July 1, 2020.]

(a)(1) The department shall designate the symbol of access adopted pursuant to § 12-2-123 for the issuance of registrations, placards, decals, and license plates to drivers or passengers with a disability under this part.

(2)(A) The symbol must be utilized for the issuance of all new registrations, placards, decals, and license plates under this part on or after July 1, 2020. Existing registrations, placards, decals, and license plates must conform to subdivision (a)(1) upon replacement, including upon a request for replacement by a driver or passenger with a disability. Notwithstanding any law to the contrary, if a person requests to replace an existing registration, placard, decal, or license plate in accordance with this subdivision (a)(2)(A), the person must pay the same fee otherwise due for the initial issuance of such registration, placard, decal, or license plate.

(B) Subdivision (a)(2)(A) only applies upon the exhaustion of the supply of existing registrations, placards, decals, and license plates.

(3) The department may promulgate rules for the purpose of carrying out this subsection (a).

(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.

55-21-105. Parking privileges. [Effective until July 1, 2020. See the version effective on July 1, 2020.]

(a) Except as provided in § 12-10-109(e), no state agency, county, city, town or other municipality or any agency thereof shall exact any fee for parking on any street or highway or in any metered parking space or in parking lots municipally owned or leased, or both municipally owned and leased, or a parking place owned or leased, or both owned and leased, by a municipal parking utility or authority. No state postsecondary education institution or any agent thereof shall exact any fee from any visitor to the institution, or from any visitor attending programs of the institution not for credit, for parking on any parking lot owned or leased by a state postsecondary education institution, or both owned and leased by a state postsecondary education institution. The parking privileges granted by this section are limited to any disabled driver or
disabled passenger to whom the distinctive license plates or placards were issued, and to qualified operators acting under the express direction of a disabled passenger to whom the distinctive license plate or placards were issued, while the disabled person is a passenger in the motor vehicle. Any disabled veteran who qualifies for and receives a disabled veteran’s license plate shall also be afforded the same privileges as granted to a disabled person who qualifies for and receives a disabled license plate or placard as provided for in § 55-21-103.

(b)(1) Any business, firm, or other person transacting business with the public from a permanent location shall provide specially marked parking spaces for the exclusive use of persons qualifying for the rights and privileges extended by this part.

(2) The number of accessible parking spaces shall be:

<table>
<thead>
<tr>
<th>Range</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 to 25</td>
<td>1</td>
</tr>
<tr>
<td>26 to 50</td>
<td>2</td>
</tr>
<tr>
<td>51 to 75</td>
<td>3</td>
</tr>
<tr>
<td>76 to 100</td>
<td>4</td>
</tr>
<tr>
<td>101 to 150</td>
<td>5</td>
</tr>
<tr>
<td>151 to 200</td>
<td>6</td>
</tr>
<tr>
<td>201 to 300</td>
<td>7</td>
</tr>
<tr>
<td>301 to 400</td>
<td>8</td>
</tr>
<tr>
<td>401 or greater</td>
<td>9</td>
</tr>
</tbody>
</table>

(3) In addition, if there are no less than four (4) parking spaces designated with the wheelchair disabled sign, then at least one (1) of the parking spaces shall be van accessible, but if more than four (4) spaces are designated as disabled parking spaces, then at least two (2) spaces per eight (8) disabled parking spaces shall be van accessible. A van accessible parking space shall be at least eight feet (8’) wide and shall have an adjacent access aisle that is at least eight feet (8’) wide.

(4) The access aisle shall be located on the passenger side of the parking space except that two (2) adjacent accessible parking spaces may share a common access aisle.

(5) Van accessible parking spaces shall have an additional sign marked “Van Accessible — Priority for Wheelchair User” mounted below the sign required by subsection (c). The van accessible parking spaces may have an additional sign marked “Priority Should Be Given to Disabled Van Access. Other Disabled Vehicles Should Use Only If No Other Available Disabled Spaces” mounted below other required signs. Van accessible parking spaces are not restricted to disabled van access; provided, that disabled vehicles other than vans should not use van accessible parking spaces when another accessible disabled parking space is available.

(c) Each such parking space shall be marked and maintained with the stylized wheelchair symbol designated by § 55-21-104, after July 1, 1983. The marking may be by a sign on a pole. Nonconforming markings or signs shall be acceptable during the useful life of the markings or signs, which may not be extended by other than normal maintenance as long as the markings or signs provide reasonable notice of the specially marked parking space.

(d) The department is authorized to enter into reciprocal agreements with similar authorities in other states whereby holders of disabled license plates or distinguishing placards in those states may be granted the same parking
privileges granted by this section.

(e)(1) Any business, firm, or other person transacting business that provides specially marked parking spaces pursuant to this part shall also provide van-accessible parking spaces. Van-accessible parking spaces shall have an access aisle that is no less than ninety-six inches (96") to accommodate a wheelchair lift, have vertical clearance to accommodate van height at the van parking space and adjacent access aisle, and have an additional sign or marking identifying the parking space as van accessible.

(2) This subsection (e) shall apply to businesses, firms, or persons conducting business with the public from a permanent location who provide specially marked parking spaces after April 24, 2006. Businesses, firms, or persons conducting business with the public from a permanent location who provide specially marked parking spaces on or before April 24, 2006, shall comply with this subsection (e) when it is readily achievable. For the purposes of this subsection (e), “readily achievable” means easily accomplishable and able to be carried out without considerable difficulty or expense.

(3) A business, firm or person conducting business with the public from a permanent location who provides only one (1) specially marked parking space shall convert such specially marked parking space into a van-accessible parking space when such conversion is readily achievable.

55-21-105. Parking privileges. [Effective on July 1, 2020. See the version effective until July 1, 2020.]

(a) Except as provided in § 12-10-109(e), no state agency, county, city, town or other municipality or any agency thereof shall exact any fee for parking on any street or highway or in any metered parking space or in parking lots municipally owned or leased, or both municipally owned and leased, or a parking place owned or leased, or both owned and leased, by a municipal parking utility or authority. No state postsecondary education institution or any agent thereof shall exact any fee from any visitor to the institution, or from any visitor attending programs of the institution not for credit, for parking on any parking lot owned or leased by a state postsecondary education institution, or both owned and leased by a state postsecondary education institution. The parking privileges granted by this section are limited to any disabled driver or disabled passenger to whom the distinctive license plates or placards were issued, and to qualified operators acting under the express direction of a disabled passenger to whom the distinctive license plate or placards were issued, while the disabled person is a passenger in the motor vehicle. Any disabled veteran who qualifies for and receives a disabled veteran’s license plate shall also be afforded the same privileges as granted to a disabled person who qualifies for and receives a disabled license plate or placard as provided for in § 55-21-103.

(b)(1) Any business, firm, or other person transacting business with the public from a permanent location shall provide specially marked parking spaces for the exclusive use of persons qualifying for the rights and privileges extended by this part.

(2) The number of accessible parking spaces shall be:

1 to 25
(3) In addition, if there are no less than four (4) parking spaces designated with the wheelchair disabled sign or symbol of access, then at least one (1) of the parking spaces shall be van accessible, but if more than four (4) spaces are designated as disabled parking spaces, then at least two (2) spaces per eight (8) disabled parking spaces shall be van accessible. A van accessible parking space shall be at least eight feet (8') wide and shall have an adjacent access aisle that is at least eight feet (8') wide.

(4) The access aisle shall be located on the passenger side of the parking space except that two (2) adjacent accessible parking spaces may share a common access aisle.

(5) Van accessible parking spaces shall have an additional sign marked “Van Accessible — Priority for Wheelchair User” mounted below the sign required by subsection (c). The van accessible parking spaces may have an additional sign marked “Priority Should Be Given to Disabled Van Access. Other Disabled Vehicles Should Use Only If No Other Available Disabled Spaces” mounted below other required signs. Van accessible parking spaces are not restricted to disabled van access; provided, that disabled vehicles other than vans should not use van accessible parking spaces when another accessible disabled parking space is available.

(c) Each such parking space must be marked and maintained with the stylized wheelchair symbol designated by § 55-21-104, as that section existed on June 30, 2020; provided, that such parking spaces may, at the discretion of the owner, be marked with the symbol of access designated under § 55-21-104, to the extent that such marking complies with federal law. The marking may be by a sign on a pole. Nonconforming markings or signs shall be acceptable during the useful life of the markings or signs, which may not be extended by other than normal maintenance as long as the markings or signs provide reasonable notice of the specially marked parking space.

(d) The department is authorized to enter into reciprocal agreements with similar authorities in other states whereby holders of disabled license plates or distinguishing placards in those states may be granted the same parking privileges granted by this section.

(e)(1) Any business, firm, or other person transacting business that provides specially marked parking spaces pursuant to this part shall also provide van-accessible parking spaces. Van-accessible parking spaces shall have an access aisle that is no less than ninety-six inches (96") to accommodate a wheelchair lift, have vertical clearance to accommodate van height at the van parking space and adjacent access aisle, and have an additional sign or marking identifying the parking space as van accessible.

(2) This subsection (e) shall apply to businesses, firms, or persons conducting business with the public from a permanent location who provide specially marked parking spaces after April 24, 2006. Businesses, firms, or persons conducting business with the public from a permanent location who provide
specially marked parking spaces on or before April 24, 2006, shall comply with this subsection (e) when it is readily achievable. For the purposes of this subsection (e), “readily achievable” means easily accomplishable and able to be carried out without considerable difficulty or expense.

(3) A business, firm or person conducting business with the public from a permanent location who provides only one (1) specially marked parking space shall convert such specially marked parking space into a van-accessible parking space when such conversion is readily achievable.

55-21-108. Unauthorized use of disabled parking or placard — Violations — Penalties. [Effective until July 1, 2020. See the version effective on July 1, 2020.]

(a)(1)(A) Any person, except a person who meets the requirements for the issuance of a distinguishing placard or license plate, a disabled veteran’s license plate, or who meets the requirements of § 55-21-105(d), who parks in any parking space designated with the wheelchair disabled sign, commits a misdemeanor, punishable by a fine of two hundred dollars ($200), which fine shall not be suspended or waived and, in addition, not more than five (5) hours of community service work may be imposed. Any community service requirements imposed by this section shall be to assist the disabled community by monitoring disabled parking spaces, providing assistance to handicapped centers or to disabled veterans, or other such purposes. The agreement may designate the entity that is responsible for the supervision and control of the offenders.

(B) In order to furnish the general assembly with information necessary to make an informed determination as to whether the increase in the cost of living has resulted in the fine authorized by subdivision (a)(1)(A) no longer being commensurate with the amount of fine deserved for the offense committed, every five (5) years, on or before January 15, the fiscal review committee shall report to the chief clerks of the senate and of the house of representatives of the general assembly and report to the general assembly the percentage of change in the average consumer price index (all items-city average) as published by the United States department of labor, bureau of labor statistics and shall also report to the clerks what the amount of the fine would be if adjusted to reflect the compounded cost-of-living increases during the five-year period.

(2) In addition to the fine imposed pursuant to subdivision (a)(1), a vehicle that does not display a disabled license plate or placard, and that is parked in any parking space designated with the wheelchair disabled sign, is subject to being towed. When a vehicle has been towed or removed pursuant to this subdivision (a)(2), it shall be released to its owner, or person in lawful possession, upon demand; provided, that the person making demand for return pays all reasonable towing and storage charges and that the demand is made during the operating hours of the towing company.

(3) It is also a violation of this subsection (a) for any person to park a motor vehicle so that a portion of the vehicle encroaches into a disabled parking space in a manner that restricts, or reasonably could restrict, a person confined to a wheelchair from exiting or entering a motor vehicle properly parked within the disabled parking space.

(4)(A) Signs designating disabled parking shall indicate that unauthorized or improperly parked vehicles may be towed and the driver fined two
hundred dollars ($200), and shall also provide the name and telephone number of the towing company or the name and telephone number of the property owner, lessee or agent in control of the property.

(B) After July 1, 2008, as new signs designating disabled parking are erected, the signs shall indicate the penalties imposed by this section. Nothing in this section shall be construed to require the removal or alteration of any existing sign designating disabled parking.

(b) Notwithstanding any other law to the contrary, subsection (a) shall be enforced by state and local authorities in their respective jurisdictions, whether violations occur on public or private property, in the same manner used to enforce other parking laws.

(c)(1) Any person not meeting the requirements of § 55-21-103 who uses a disabled placard to obtain parking commits a misdemeanor. The disabled placard used to obtain parking by a person not meeting the requirements of § 55-21-103 shall be subject to forfeiture and confiscation by state and local authorities in their respective jurisdictions.

(2) If a state or local law enforcement officer observes a violation of subdivision (c)(1), the officer may confiscate the disabled placard. To recover the placard, a driver must demonstrate by a preponderance of the evidence that the driver was complying with § 55-21-103, at the time of the confiscation.

(d) Any person who unlawfully sells, copies, duplicates, manufactures, or assists in the sale, copying, duplicating or manufacturing of a disabled placard commits a Class A misdemeanor, punishable by a minimum one-thousand-dollar fine and imprisonment for a time in the discretion of the court.

(e) Any person who is not a disabled driver as prescribed in § 55-21-102, and who willfully and falsely represents the person as meeting the requirements to obtain either a permanent or temporary placard commits a Class A misdemeanor, punishable only by a fine of not more than one thousand dollars ($1,000).

(f) Any violation of § 55-21-103(g) shall be a Class B misdemeanor, punishable by a fine only of two hundred dollars ($200).

55-21-108. Unauthorized use of disabled parking or placard — Violations — Penalties. [Effective on July 1, 2020. See the version effective until July 1, 2020.]

(a)(1)(A) Any person, except a person who meets the requirements for the issuance of a distinguishing placard or license plate, a disabled veteran’s license plate, or who meets the requirements of § 55-21-105(d), who parks in any parking space designated with the wheelchair disabled sign or symbol of access, commits a misdemeanor, punishable by a fine of two hundred dollars ($200), which fine shall not be suspended or waived and, in addition, not more than five (5) hours of community service work may be imposed. Any community service requirements imposed by this section shall be to assist the disabled community by monitoring disabled parking spaces, providing assistance to handicapped centers or to disabled veterans, or other such purposes. The agreement may designate the entity that is responsible for the supervision and control of the offenders.

(B) In order to furnish the general assembly with information necessary to make an informed determination as to whether the increase in the cost of
living has resulted in the fine authorized by subdivision (a)(1)(A) no longer being commensurate with the amount of fine deserved for the offense committed, every five (5) years, on or before January 15, the fiscal review committee shall report to the chief clerks of the senate and of the house of representatives of the general assembly and report to the general assembly the percentage of change in the average consumer price index (all items-city average) as published by the United States department of labor, bureau of labor statistics and shall also report to the clerks what the amount of the fine would be if adjusted to reflect the compounded cost-of-living increases during the five-year period.

(2) In addition to the fine imposed pursuant to subdivision (a)(1), a vehicle that does not display a disabled license plate or placard, and that is parked in any parking space designated with the wheelchair disabled sign or symbol of access, is subject to being towed. When a vehicle has been towed or removed pursuant to this subdivision (a)(2), it shall be released to its owner, or person in lawful possession, upon demand; provided, that the person making demand for return pays all reasonable towing and storage charges and that the demand is made during the operating hours of the towing company.

(3) It is also a violation of this subsection (a) for any person to park a motor vehicle so that a portion of the vehicle encroaches into a disabled parking space in a manner that restricts, or reasonably could restrict, a person confined to a wheelchair from exiting or entering a motor vehicle properly parked within the disabled parking space.

(4)(A) Signs designating disabled parking shall indicate that unauthorized or improperly parked vehicles may be towed and the driver fined two hundred dollars ($200), and shall also provide the name and telephone number of the towing company or the name and telephone number of the property owner, lessee or agent in control of the property.

(B) After July 1, 2008, as new signs designating disabled parking are erected, the signs shall indicate the penalties imposed by this section. Nothing in this section shall be construed to require the removal or alteration of any existing sign designating disabled parking.

(b) Notwithstanding any other law to the contrary, subsection (a) shall be enforced by state and local authorities in their respective jurisdictions, whether violations occur on public or private property, in the same manner used to enforce other parking laws.

(c)(1) Any person not meeting the requirements of § 55-21-103 who uses a disabled placard to obtain parking commits a misdemeanor. The disabled placard used to obtain parking by a person not meeting the requirements of § 55-21-103 shall be subject to forfeiture and confiscation by state and local authorities in their respective jurisdictions.

(2) If a state or local law enforcement officer observes a violation of subdivision (c)(1), the officer may confiscate the disabled placard. To recover the placard, a driver must demonstrate by a preponderance of the evidence that the driver was complying with § 55-21-103, at the time of the confiscation.

(d) Any person who unlawfully sells, copies, duplicates, manufactures, or assists in the sale, copying, duplicating or manufacturing of a disabled placard commits a Class A misdemeanor, punishable by a minimum one-thousand-dollar fine and imprisonment for a time in the discretion of the court.

(e) Any person who is not a disabled driver as prescribed in § 55-21-102,
who willfully and falsely represents the person as meeting the requirements to obtain either a permanent or temporary placard commits a Class A misdemeanor, punishable only by a fine of not more than one thousand dollars ($1,000).

(f) Any violation of § 55-21-103(g) shall be a Class B misdemeanor, punishable by a fine only of two hundred dollars ($200).

55-23-103. Fee for storage beyond 21 days — Consent or notice required — Release of vehicle — “Reasonable charges” defined.

(a) Persons engaged in the business of towing motor vehicles by wrecker or otherwise and the storing of these motor vehicles for any type of remuneration, whether as the principal business of those persons or as an incidence to the persons’ principal business, shall not charge the owner or lienholder of any stored motor vehicle a storage fee for a period exceeding twenty-one (21) days without the consent of the owner or lienholder, except as provided in § 55-23-104.

(b) Persons engaged in the businesses described in subsection (a) shall not charge a storage fee for any day on which the vehicle is not available for release to the owner, lienholder, or insurer, unless such failure to release is based on a hold placed on the vehicle by law enforcement.

(c) Upon provision of documentation from an insurer or lienholder showing its right to take custody of the vehicle, persons engaged in the businesses described in subsection (a) shall release the vehicle to the insurer or lienholder, or an authorized agent or representative for such insurer or lienholder, upon the insurer’s or lienholder’s payment of reasonable charges due, without requiring additional consent from the owner of the vehicle. The insurer or lienholder shall indemnify and hold harmless the releasing person or entity from any action, cause of action, claim, judgment, loss, liability, damage, or cost that it may incur due to wrongful release of the vehicle to an authorized agent or representative of the insurer or lienholder.

(d) For purposes of subsection (c), “reasonable charges” do not include the following:

(1) A fee charged at a higher rate than the maximum fee that has been approved by the Tennessee highway patrol district to be charged for the same service by persons engaged in the businesses described in subsection (a) that serve on the Tennessee highway patrol dispatch towing list; and

(2) A gate, access, or release fee during normal business hours for any day during which daily storage is also being charged.

55-26-102. Local ordinances.

By ordinance of its legislative body, any municipality or metropolitan government may authorize, regulate, and control the commercial use of pedal carriages and rickshaws as modes of transportation-for-hire within entertainment, dining, scenic and/or historic areas of the center city. The ordinances shall be reasonably related to promotion and protection of the health, safety and welfare of operators, passengers, pedestrians, motorists and others visiting or working within the center city.

(a) The department, upon issuing a driver license, shall indicate thereon the class of vehicles the licensee may drive. Licenses shall be issued with the classifications and endorsements as defined in § 55-50-102.

(b) The department shall establish qualifications it believes reasonably necessary, in addition to the qualifications specified in this part, for the safe operation of the various types, sizes, or combinations of vehicles, and shall determine by appropriate examination whether each applicant is qualified for the license classification or endorsement for which application has been made.

(c) The department shall not issue a license in Class A, B, or C or any of the endorsements specified in subsection (a) other than a for-hire endorsement unless the applicant meets the following qualifications in addition to all other applicable qualifications:

1. The applicant must be at least twenty-one (21) years of age;
2. The applicant must not currently be under a driver license suspension or revocation in this or any other state;
3. The applicant must certify in the license application that all of the qualifications are met.

(d) The department shall not issue an initial school bus endorsement to any applicant unless:

1. The applicant is at least twenty-five (25) years of age;
2. The applicant has had at least five (5) consecutive years of unrestricted driving experience prior to the date of application; and
3. The department is fully satisfied as to the applicant’s good character, competency, and fitness to be so employed.

(e) The department shall not issue a for-hire endorsement unless the applicant has had at least two (2) years of unrestricted driving experience prior to the date of application and the department is fully satisfied as to the applicant’s good character, competency, and fitness to be so employed, and the applicant is eighteen (18) years of age and will be operating a Class D vehicle. Nothing in this subsection (e) shall authorize anyone under nineteen (19) years of age to operate a commercial motor vehicle as defined in 49 CFR part 390; provided, that the department is authorized to issue a for-hire endorsement to operate a Class D vehicle to an applicant who is at least sixteen (16) years of age and who is not currently under any driver license suspension, cancellation, or revocation in this or any other state, and the vehicle is owned by the applicant’s family business to conduct deliveries of goods and products exclusively for family business.

(f) This section is applicable to the issuance of temporary driver licenses and permits.

(g)(1) The department shall not issue or renew a hazardous materials endorsement unless a determination of no security threat has been issued in conformance with 49 CFR part 1572.

2. The department shall revoke a current hazardous materials endorsement upon receipt of an initial or final determination of security threat in accordance with 49 CFR part 1572.

(a) The department, upon issuing a driver license, shall indicate thereon the class of vehicles the licensee may drive. Licenses shall be issued with the classifications and endorsements as defined in § 55-50-102.

(b) The department shall establish qualifications it believes reasonably necessary, in addition to the qualifications specified in this part, for the safe operation of the various types, sizes, or combinations of vehicles, and shall determine by appropriate examination whether each applicant is qualified for the license classification or endorsement for which application has been made.

(c) The department shall not issue a license in Class A, B, or C or any of the endorsements specified in subsection (a) other than a for-hire endorsement unless the applicant meets the following qualifications in addition to all other applicable qualifications:

   1. The applicant must be at least twenty-one (21) years of age;
   2. The applicant must not currently be under a driver license suspension or revocation in this or any other state;
   3. The applicant must certify in the license application that all of the qualifications are met.

(d) The department shall not issue an initial school bus endorsement to any applicant unless:

   1. (A) The applicant is at least twenty-five (25) years of age; or
      (B) The applicant is at least twenty-three (23) years of age and:
         (i) An honorably discharged veteran of the United States armed forces;
         (ii) A member of the national guard or a reserve component of the United States armed forces; or
         (iii) A licensed teacher employed by an LEA;
   2. The applicant has had at least five (5) consecutive years of unrestricted driving experience prior to the date of application; and
   3. The department is fully satisfied as to the applicant’s good character, competency, and fitness to be so employed.

(e) An applicant for an initial school bus endorsement pursuant to subdivision (d)(1)(B) must submit to the department, as part of the application:

   1. A certified copy of the applicant’s certificate of release or discharge from active duty, department of defense form 214 (DD 214), if the applicant is an honorably discharged veteran of the United States armed forces; or
   2. A letter recommending the applicant to operate a school bus, from:
      (A) One (1) of the applicant’s commanding officers, if the applicant is a member of the national guard or a reserve component of the United States armed forces; or
      (B) The director of schools of the LEA that employs the applicant, if the applicant is a licensed teacher.

(f) The department shall not issue a for-hire endorsement unless the applicant has had at least two (2) years of unrestricted driving experience prior to the date of application and the department is fully satisfied as to the applicant’s good character, competency, and fitness to be so employed, and the applicant is eighteen (18) years of age and will be operating a Class D vehicle. Nothing in this subsection (f) shall authorize anyone under nineteen (19) years of age to operate a commercial motor vehicle as defined in 49 CFR Part 390; provided,
that the department is authorized to issue a for-hire endorsement to operate a Class D vehicle to an applicant who is at least sixteen (16) years of age and who is not currently under any driver license suspension, cancellation, or revocation in this or any other state, and the vehicle is owned by the applicant’s family business to conduct deliveries of goods and products exclusively for family business.

(g) This section is applicable to the issuance of temporary driver licenses and permits.

(h)(1) The department shall not issue or renew a hazardous materials endorsement unless a determination of no security threat has been issued in conformance with 49 CFR Part 1572.

(2) The department shall revoke a current hazardous materials endorsement upon receipt of an initial or final determination of security threat in accordance with 49 CFR Part 1572.


(a) The department shall not issue any license under this chapter:

(1)(A) To any person, as a Class A, B, or C driver, who is under twenty-one (21) years of age;

(B)(i) Notwithstanding subdivision (a)(1)(A), persons nineteen (19) years of age shall be permitted to apply for a Class A or B license if no special endorsements are required, the commercial vehicle will be operated solely in intrastate commerce, within one hundred (100) miles of the driver’s place of employment or home terminal, and there has been compliance with all other current provisions of 49 CFR parts 383 and 391; and

(ii) Notwithstanding subdivision (a)(1)(A), persons eighteen (18) years of age shall be permitted to apply for a Class B license if no special endorsements are required, the commercial vehicle will be operated solely in intrastate commerce, within one hundred (100) miles of the driver’s place of employment or home terminal, and there has been compliance with all other current provisions of 49 CFR parts 383 and 391;

(2) To any person whose license has been suspended, cancelled or revoked, during suspension, cancellation or revocation and not until the person has complied with all requirements for reinstatement;

(3) To any person who is an habitual drunkard, or is addicted to the use of narcotic drugs;

(4) To any person who has previously been adjudged to be afflicted with or suffering from any mental disability or disease and who has not at the time of application been restored to competency by the methods provided by law;

(5) To any person who is required by this chapter to take an examination, unless the person has successfully passed the examination;

(6) To any person when the commissioner has good cause to believe that the person by reason of physical or mental disabilities would not be able to operate a motor vehicle with safety upon the highways;

(7) To any person who is required under the laws of this state to deposit proof of financial responsibility and who has not deposited the proof;

(8) To any person who does not comply with § 49-6-3017; or
(9) To any person who is not a United States citizen or lawful permanent resident of the United States.

(b)(1) Notwithstanding subsections (d) and (e), in addition to all other requirements of law, prior to reinstating the driving privileges and/or reissuing a driver license to any person who has been convicted of the offense of driving while under the influence, the department shall require certification that all fines and costs have been paid to the court of jurisdiction. The certification shall be made upon a form supplied by the department, and shall indicate the fines and costs levied by the court, that all fines and costs have been paid to the court, or that the fines and/or costs were waived as a result of the person being found to be indigent by the court, if the court is located within this state. The form shall be completed and certified by the clerk of the court of jurisdiction; provided, however, that it is the sole responsibility of the individual seeking reinstatement or reissuance to obtain the certification and present it to the department.

(2) Persons convicted of any other offense requiring mandatory revocation of driving privileges shall be required to present the same certification in subdivision (b)(1) prior to the reinstatement of driving privileges and/or the reissuance of a driver license.

(3) Each certification form required by this section shall be accompanied by a three-dollar filing fee, payable to the department.

(c) Notwithstanding this section, the department may issue a temporary license, pursuant to § 55-50-331(g) and any other departmental rules and regulations promulgated by the department.

(d)(1) A person whose license has been suspended, subject to the approval of the court, may pay any fines or costs, arising from the convictions or failure to appear in any court, by establishing a payment plan with the clerk of the court to which the fines and costs are owed. The fines and costs for a conviction of driving while suspended may be included in such payment plan, subject to the approval of the court.

(2) The department is authorized to reinstate a person’s driving privileges when the person provides the department with certification from the local court to which the fines and costs are owed that the person has entered into a payment plan with the court clerk and has satisfied all other provisions of law relating to the issuance and restoration of a driver license.

(3) The department shall, upon notice of the person’s failure to comply with any payment plan established pursuant to this subsection (d), suspend the license of the person. Persons who default under this subsection (d) shall not be eligible for any future payment plans under this subsection (d). The department shall notify the person in writing of the proposed suspension, and upon request of the person within thirty (30) days of the notification, shall provide the person an opportunity for a hearing to show that the person has, in fact, complied with the court clerk’s payment plan. Failure to make the request within thirty (30) days of receipt of notification shall, without exception, constitute a waiver of the right.

(e)(1) Any person whose license has been suspended for having been convicted of a driving offense, and for the subsequent failure to pay a fine or cost imposed for that offense, may apply to the court where the person was convicted for the issuance of a restricted license. The court shall order the person whose license has been suspended to enter into a payment plan with the court clerk and make payments to the court clerk during the period of
restricted license, as a condition of receiving the restricted license, in an amount reasonably calculated to fully pay the moneys owed the court during the period of the restricted license, including authorization of payment of the fine by installments as authorized in § 40-24-101. The restricted license shall be valid only for the purpose of going to and from work at the person’s regular place of employment.

(2) The judge shall order the issuance of a restricted license, based upon the records of the department of safety, if the department suspended the person’s license as a result of the person’s conviction of any driving offense in that court and for the person’s failure to pay or secure any fine or costs imposed for that offense; provided, however, that the judge shall not order the issuance of a restricted license and the department shall not issue a restricted license to a person whose license is suspended pursuant to § 55-10-615.

(3) The order shall state with all practicable specificity the necessary times and places of permissible operation of a motor vehicle. The person so arrested may obtain a certified copy of the order and, within ten (10) days after the order is issued, present it, together with an application fee of sixty-five dollars ($65.00), to the department, which shall issue a restricted license embodying the limitations imposed in the order. After proper application and until the restricted license is issued, a certified copy of the order may serve in lieu of a motor vehicle operator’s license.

55-50-323. Fees.

(a)(1) The fees charged for eight-year driver licenses shall be as set by this subsection (a). For any license term other than eight (8) years, the fee shall be appropriately prorated; provided, that for Class D, Class M, and photo identification licenses, there shall be deducted from the gross prorated fee the amount of two dollars ($2.00).

(2) The fees charged for driver licenses shall be as follows:
   (A) For Class A and renewal thereof, sixty-four dollars ($64.00) until canceled, revoked, suspended, or expired;
   (B) For Classes B and C and renewal thereof, fifty-six dollars ($56.00) until canceled, revoked, suspended, or expired;
   (C) For Class D and renewal thereof, twenty-six dollars ($26.00) until canceled, revoked, suspended, or expired;
   (D) For Class M and renewal thereof, twenty-six dollars ($26.00) until canceled, revoked, suspended, or expired;
   (E) For Class P, a fee equal to the fee for the particular class license for which the person is applying until cancelled, revoked, suspended or expired;
   (F) In addition to the above fees, any person applying for a special endorsement, or renewal thereof, shall pay an additional two dollars and fifty cents ($2.50) for each endorsement;
   (G) For a restricted license, sixty-five dollars ($65.00) until canceled, revoked or suspended;
   (H) For any commercial upgrade from Class C to Class B, or Class B to Class A, fifteen dollars ($15.00);
   (I) For the first duplicate of any license herein provided, during a regular renewal cycle, six dollars ($6.00), and for the second and subse-
quent duplicate during a regular renewal cycle, ten dollars ($10.00);

(J)(i) For a photo identification card, or renewal thereof, ten dollars ($10.00) until cancelled or expired. The fee charged for a photo identification license or renewal of a photo identification license issued pursuant to § 55-50-331(g) shall be the same as the fee charged for an eight-year photo identification license pursuant to this subsection (a);

(ii) Any person with an intellectual or physical disability unable to obtain a regular operator's license may be issued a photo identification license. For the purpose of this subdivision (a)(2)(J)(ii), a “person with an intellectual disability” means an individual having significantly deficient or sub-average general intellectual functioning either from birth or originating during the developmental period and that is associated with an impairment of adaptive behavior. The intellectual or physical disability shall be verified by letter from a physician licensed to practice in Tennessee, and the person shall furnish satisfactory proof of the person’s identity by birth certificate or any other satisfactory document substantiating the person’s identity. Upon submission of an application and satisfactory verification of intellectual or physical disability and proof of identity, the department shall issue, without charge, a permanent Tennessee photo identification license having printed prominently thereon the following statement: “FOR IDENTIFICATION PURPOSES ONLY, NOT VALID FOR VEHICULAR OPERATION”;

(K)(i) For any person sixty (60) years of age or older who, on or after January 1, 2013, elects to renew a nonphoto bearing license, the fee for the license shall be fifteen dollars ($15.00); provided, that the license is an operator (Class D or M) with no endorsements;

(ii) No person sixty (60) years of age or older who, prior to January 1, 2013, elected to obtain a nonphoto bearing license shall be required to obtain a driver license with a color photograph on or after January 1, 2013; and

(L)(i) If a Class C or Class B is upgraded to a Class A before the end of the renewal cycle, the applicant must pay the appropriate application and commercial upgrade fees;

(ii) If a Class C is upgraded to a Class B before the end of the renewal cycle, the applicant must pay the appropriate application and commercial upgrade fees;

(iii) If a Class P is upgraded to a Class A, B, C, D or M within one (1) year of date of issuance, there will be no upgrade fee required; and

(M) Notwithstanding this section, any person applying for a school bus endorsement, as defined in § 55-50-102(22)(E), or renewal thereof, shall pay a total fee of twenty dollars ($20.00) for each school bus endorsement.

(b) For the purposes of this section, “driver license” includes intermediate driver license.

(c) The fee charged for any temporary driver license issued pursuant to § 55-50-331(g) shall be the same as the fee charged for an eight-year Class D license.


(a)(1) Any person eighteen (18) years of age and older, upon submission of a satisfactory application and proof of identity, may be issued a photo
identification license restricted in use to identification only. Proof of identity may be furnished by birth certificate or any other document as set forth in this chapter substantiating the identity of the applicant.

(2) Any person less than eighteen (18) years of age may be issued, upon submission of a certified birth certificate, filing of an affidavit by the person’s parent or legal guardian, proof of identity of the parent or legal guardian, and payment of the required fee and completion of application, a photo identification license.

(b) The photo identification license shall have substantially the same content as a driver license, but shall clearly indicate that it is not a driver license by having printed prominently thereon the following statement: “FOR IDENTIFICATION PURPOSES ONLY — NOT VALID FOR VEHICULAR USE.”

(c) Photo identification licenses issued by the department shall be issued in the same manner as driver licenses.

(d)(1) Photo identification licenses issued by the department shall indicate on the license if the license holder has previously had a license revoked or suspended due to a conviction for violation of § 55-10-401.

(2) Subdivision (d)(1) shall not apply to a person whose conviction is more than ten (10) years old and who is permanently handicapped and unable to drive a motor vehicle. If a person claims this circumstance the application shall be accompanied by any documentation required by the department to obtain a photo identification license.

(e) A photo identification license shall not be issued by the department to a person who has been issued a driver license that has not expired or that has not been revoked or suspended.

(f)(1) The department is authorized to issue a temporary photo identification license, which shall be valid only during the period of time of the applicant’s authorized stay in the United States; or, if there is no definite end to the period of authorized stay, a period of one (1) year.

(2) An applicant for a temporary photo identification license shall submit an application that includes proof of the applicant’s identity, Tennessee residency, and authorized stay in the United States.

(g)(1) Notwithstanding § 55-50-323, a photo identification license issued pursuant to this section shall be provided free of charge to a person, if the person signs an affidavit stating the person:

(A) Does not have a valid government issued photo identification;
(B) Is a registered voter in this state; and
(C) Needs the photo identification license for voting purposes.

(2) Notwithstanding subsection (e), a photo identification license may be issued to a person who meets the criteria of subdivisions (g)(1)(A)-(C) even if the person has a valid nonphoto bearing driver license.

(h)(1) A person who has attained sixty-five (65) years of age and who applies for a photo identification license may elect to receive a photo identification license that does not expire.

(2) A non-expiring photo identification license will continue to be valid until cancelled or replaced. A replacement may be obtained at any time upon payment of the fee specified in § 55-50-323(a)(2)(J)(i).

(3) A non-expiring photo identification license is subject to the limitations of § 55-50-331(i).
55-50-337. Expiration of licenses.

(a) Every driver license issued by the department on or after January 1, 2016, shall be issued for a period of eight (8) years excluding Class P licenses, which shall expire one (1) year from the date of initial issuance. The commissioner may issue an initial license or renew a license that shall remain valid for three (3) to eight (8) years in order to transition licensees to an eight-year renewal cycle. License fees due under § 55-50-323 shall be prorated to reflect the appropriate fee for a renewal cycle of lesser length than eight (8) years; provided, that for Class D, Class M, and photo identification licenses, there shall be deducted from the gross prorated fee the amount of two dollars ($2.00).

(b) [Deleted by 2019 amendment.]

(c) Notwithstanding any other law to the contrary, temporary licenses issued pursuant to § 55-50-331(g) shall be valid during the period of time specified in § 55-50-331(g).

(d) Any person issued a license or permit prior to July 1, 2004, who is subject to § 55-50-331(g) shall, upon renewal or reapplication, receive, if otherwise eligible, a temporary license, which shall expire in accordance with § 55-50-331(g).

55-50-414. Farm-related service industry employee restricted commercial driver license. [Enactment effective on Contingent Effective date or January 1, 2020, which ever is earlier. See Compiler’s Notes.]

(a) The commissioner may issue a farm-related service industry employee restricted commercial driver license to a person who:

1. Is an employee of:
   (A) An agri-chemical business;
   (B) A custom harvester;
   (C) A farm retail outlet or supplier; or
   (D) A livestock feeder;

2. Satisfies all of the requirements for issuance of a commercial driver license under this chapter other than the written and driving test requirement in § 55-50-404(b);

3. Holds a valid driver license;

4. Has at least one (1) year of driving experience as a licensed driver; and

5. Has a good driving history, as defined in subsection (b), for:
   (A) The person’s entire driving history, if the person only has between one (1) and two (2) years of driving experience as a licensed driver; or
   (B) The two (2) most recent years of the person’s driving history, if the person has more than two (2) years of driving experience as a licensed driver.

(b) For purposes of subdivision (a)(5), a person has a good driving history, if the person has not:

1. Had more than one (1) driver license;

2. Had any driver license suspended, revoked, or canceled;

3. Been convicted of any offense or serious traffic violation that is a disqualifying offense or violation under § 55-50-405(g);

4. Been convicted of any law or ordinance relating to motor vehicle traffic control, other than a parking violation, arising in connection with any traffic...
accident; or

(5) Been at fault in a motor vehicle accident.

(c) A farm-related service industry employee restricted commercial driver license entitles the licensee to operate commercial motor vehicles other than Class A vehicles.

(d) A farm-related service industry employee restricted commercial driver license authorizes operation of a commercial motor vehicle only during the seasonal period or periods prescribed by the commissioner and stated on the license; provided, that the total number of calendar days in any twelve-month period for which the farm-related service industry employee restricted commercial driver license authorizes operation of a commercial motor vehicle must not exceed one hundred eighty (180) days. A farm-related service industry employee restricted commercial driver license is valid for operation of a commercial motor vehicle during the seasonal period or periods for which it has been validated and must be revalidated annually by the department for each successive seasonal period or periods for which commercial vehicle operation is sought. A farm-related service industry employee restricted commercial driver license authorizes operation of a commercial motor vehicle at any time, unless it has been suspended, revoked, or canceled, or has expired.

(e) A farm-related service industry employee restricted commercial driver license does not authorize operation of a commercial motor vehicle during any period when the licensee is not employed by an entity described in subdivision (a)(1), nor if when operation of the commercial motor vehicle is not directly related to the licensee's employment.

(f) A farm-related service industry employee restricted commercial driver license does not authorize the licensee to operate any vehicle transporting hazardous materials, except that a licensee may drive a vehicle transporting:

1. Diesel fuel in quantities of one thousand gallons (1,000 gals.), or less;
2. Liquid fertilizers in a vehicle or implement of husbandry with a total capacity of three thousand gallons (3,000 gals.) or less; or
3. Solid fertilizers that are not transported with any organic substance.

(g) A farm-related service industry employee restricted commercial driver license authorizes the operation of a commercial motor vehicle only within one hundred fifty miles (150 mi.) of the place of business of the licensee's employer or the farm being served.

(h) A person may not be the holder of a farm-related service industry employee restricted commercial driver license and an unrestricted commercial driver license at the same time.


(a)(1) The department is authorized to suspend the license of an operator or chauffeur upon a showing by its records or other sufficient evidence that the licensee:

A) Has committed an offense for which mandatory revocation of license is required upon conviction; provided, that in the event of a conviction resulting from the offense, the time of mandatory revocation shall be counted from the date upon which the driver license was received by the
department or the circuit court clerk;

(B) Has contributed as a driver in any accident resulting in the death or personal injury of another or serious property damage;

(C) Has been convicted with a frequency of serious offenses against traffic regulations governing the movement of vehicles as to indicate a disrespect for traffic laws and a disregard for the safety of other persons on the highways. For purposes of this subdivision (a)(1)(C), no conviction of exceeding the speed limit in a state other than Tennessee shall be considered by the department unless the conviction was for exceeding the lawful speed in the other state by more than five miles per hour (5 mph). This five miles per hour (5 mph) allowance shall not apply in marked school zones;

(D) Is an habitually reckless or negligent driver of a motor vehicle;

(E) Is incompetent to drive a motor vehicle;

(F) Has permitted an unlawful or fraudulent use of the license;

(G) Has committed an offense in another state that if committed in this state would be grounds for suspension or revocation;

(H) Has been finally convicted of any driving offense in any court and has not paid or secured any fine or costs imposed for that offense;

(I) Has failed to appear in any court to answer or to satisfy any traffic citation issued for violating any statute regulating traffic. No license shall be suspended pursuant to this subdivision (a)(1)(I) for failure to appear in court on or failure to pay a parking ticket or citation or for a violation of § 55-9-603. Any request from the court for suspension under this subdivision (a)(1)(I) must be submitted to the department of safety within six (6) months of the violation date. No suspension action shall be taken by the department unless the request is made within six (6) months of the violation date except in the case where the driver is a commercial license holder, or the violation occurred in a commercial motor vehicle. Prior to suspending the license of any person as authorized in this subsection (a), the department shall notify the licensee in writing of the proposed suspension and, upon the licensee’s request, shall afford the licensee an opportunity for a hearing to show that there is an error in the records received by the department; provided, that the request is made within thirty (30) days following the notification of proposed suspension or cancellation. Failure to make the request within the time specified shall without exception constitute a waiver of that right;

(J) Is under eighteen (18) years of age and has withdrawn either voluntarily or involuntarily or has failed to maintain satisfactory academic progress from a secondary school as provided in § 49-6-3017; or

(K)(i) Has contributed as a driver to the occurrence of an accident on school property, or on a highway with special speed limits, in which a pedestrian child suffers serious bodily injury as the result of the accident;

(ii) As used in this subdivision (a)(1)(K), unless the context otherwise requires:

(a) “Highway with special speed limits” means any highway with reduced speed limits, authorized pursuant to § 55-8-152, when a warning flasher or flashers are in operation, and while children are actually present;
(b) “Pedestrian child” means any person under eighteen (18) years of age afoot, in a mechanized wheelchair or on a nonmotorized wheeled device, including, but not limited to, a bicycle, a scooter, a skateboard, roller skates, in-line skates or a wheelchair;
(c) “School property” means any outdoor grounds contained within a public or private preschool, nursery school, kindergarten, elementary or secondary school’s legally defined property boundaries, as registered in a county register’s office; and
(d) “Serious bodily injury” means bodily injury that involves:
   (1) A substantial risk of death;
   (2) Protracted unconsciousness;
   (3) Extreme physical pain;
   (4) Protracted or obvious disfigurement; or
   (5) Protracted loss or substantial impairment of a function of a bodily member, organ or mental faculty.
(2) No municipal law enforcement officer is authorized to seize the license of an operator or chauffeur for a traffic offense in violation of a municipal ordinance or a traffic offense as provided in chapter 8 of this title.
(b)(1) The department is authorized to cancel any operator’s or chauffeur’s license upon determining that the licensee was not entitled to the issuance of the license or that the licensee failed to give the required or correct information in the application or committed any fraud in making the application.
(2) Upon the cancellation, the licensee must surrender the license so cancelled to the department.
(c)(1) The department, upon suspending or revoking a license, shall require that the license be surrendered to and be retained by the department. Prior to the reissuance of any license revoked because of a conviction of driving while under the influence of liquor or an intoxicating drug, after a second or subsequent conviction, the department shall require the owner to submit evidence that the owner has completed a program of alcohol or drug abuse education, or has completed treatment by a physician board certified or eligible in psychiatry or a licensed psychologist certified with competence in clinical psychology; or, at a facility licensed by the department of mental health and substance abuse services to provide this treatment. Certification of the psychiatrist or clinical psychologist or facility licensed by the department of mental health and substance abuse services under this section is not to be construed as a prediction of future behavior but merely certification of completion of the program.
(2) When the examination, as required by this subsection (c), is administered by a state supported mental health facility, the facility and medical doctors or doctors of psychology employed by the facility who administer the examinations within the course and scope of the doctor’s authority under the statute, shall be immune from tort liability for the proper dissemination of any report or findings to the department of safety that results from the examination; provided, that this immunity shall not extend to any other person, institution, or other member of the private sector, not employed or attached to a state supported mental health facility.
(3)(A)(i) The trial judge of the court, in which the trial for the offense of operating a vehicle under the influence of alcohol or an intoxicating drug is pending, may order the issuance of a restricted license. The restricted
license may only allow the person arrested to operate a motor vehicle for
the purpose of going to and from, and working at, the person's regular
place of employment, or to operate only a motor vehicle that is equipped
with a functioning ignition interlock device, during the period of time
between arrest and conviction, dismissal or acquittal. Any restriction
ordered pursuant to this subsection (c) shall be in addition to any
restrictions currently placed on the person's driver license. The trial
judge may order the issuance of a restricted license allowing a person,
whose license has been suspended due to a conviction for violating
§ 39-14-151 or chapter 10, part 5 of this title, to operate a motor vehicle
for the purpose of going to and from and working at the person's regular
place of employment.

(ii) A resident of this state, whose operator's license has been sus-
pended because of an arrest in another jurisdiction on a charge of
operating a motor vehicle while under the influence of an intoxicating
liquor or a narcotic drug, may apply for a restricted motor vehicle
operator's license during the period of time between arrest and convic-
tion, dismissal or acquittal. Such resident shall apply for the license
with any court of the county of the person's residence having jurisdiction
to try charges.

(iii) Any restriction ordered pursuant to this subsection (c) shall be in
addition to any restrictions currently placed on the person's driver
license.

(B) The judge may order the issuance of a restricted license, if:

(i) Based upon the records of the department of safety the person does
not have a prior conviction for a violation of vehicular assault under
homicide under § 39-13-213(a)(2), or aggravated vehicular homicide
under § 39-13-218, or, if the conviction occurs in another state, does not
constitute a prior conviction pursuant to § 55-10-405(b);

(ii) No person was seriously injured or killed in the course of the
conduct that resulted in the driver's conviction under § 55-10-401.

(C) If the trial judge imposes geographic restrictions, the trial judge
may issue the order allowing the person so convicted to operate a motor
vehicle for the limited purposes of going to and from:

(i) And working at the person's regular place of employment;

(ii) 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;

(iii) A court-ordered alcohol safety program;

(iv) A college or university in the case of a student enrolled full time
in the college or university;

(v) A scheduled interlock monitoring appointment;

(vi) A court ordered outpatient alcohol and drug treatment program;

and

(vii) 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).

(D) If the violation resulting in the person's conviction for driving under
the influence 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.

(E) The person so arrested may obtain a certified copy of the order and within ten (10) days after it is issued present it, together with an application fee of sixty-five dollars ($65.00), to the department, which shall forthwith issue a restricted license embodying the limitations imposed in the order.

(4) Where a nonresident whose license has been suspended or revoked by any other state subsequently becomes a bona fide resident of this state, and where the person has been granted a restricted license by the other state if the triggering offense would under the laws of this state provide for the issuance of a restricted driver license upon petition to a judge of the court of general sessions, or its equivalent, for the county wherein the person resides, 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 (c)(4) without an ignition interlock requirement shall be subject to geographic restrictions, as provided in subdivision (c)(3), during the mandatory revocation/suspension period. 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. The person may obtain a certified copy of the order and within thirty (30) days after it is issued present it, together with an application fee of sixty-five dollars ($65.00), to the department, which shall then issue a restricted license embodying the limitations imposed in the order.

(d)(1) This subsection (d) applies statewide.

(2) A person whose license has been suspended, pursuant to subdivision (a)(1)(I), subject to the approval of the court, may pay any local fines or costs, arising from the convictions or failure to appear in any court, by establishing a payment plan with the local court or the court clerk of the jurisdiction. Notwithstanding § 55-50-303(b)(2), the fines and costs for a conviction of driving while suspended, when the conviction was a result of a suspension pursuant to subdivision (a)(1)(I), may be included in such payment plan, subject to the approval of the court.

(3) The department is authorized to reinstate a person’s driving privileges when the person provides the department with certification from the local court, or court clerk of the jurisdiction that the person has entered into a payment plan with the local court or the court clerk of the jurisdiction and has satisfied all other provisions of law relating to the issuance and restoration of a driver license.

(4) The department shall, upon notice of the person’s failure to comply with any payment plan established pursuant to this subsection (d), suspend the license of the person. Persons who default under this subsection (d) shall not be eligible for any future payment plans under this subsection (d). The department shall notify the person in writing of the proposed suspension,
and upon request of the person within thirty (30) days of the notification, shall provide the person an opportunity for a hearing to show that the person has, in fact, complied with the local court’s or the court clerk’s payment plan. Failure to make the request within thirty (30) days of receipt of notification shall, without exception, constitute a waiver of the right.

(5) Any person who has defaulted on a pay plan to pay fines and costs for suspension actions taken under subdivision (a)(1)(I), shall not be eligible to participate in a payment plan, nor shall the department of safety have the authority to accept a payment plan as a condition precedent to the restoration of driving privileges.

(6) Any county that participates in the payment plan authorized by this subsection (d) shall pay to the state any expense required to be paid for state implementation of this subsection (d). The payment shall be divided pro rata among the counties to which this subsection (d) applies. The payment shall be made prior to the implementation by the county of this subsection (d).

(e)(1) Any resident or nonresident whose operator’s or chauffeur’s license or right or privilege to operate a motor vehicle in this state has been suspended or revoked as provided in this chapter shall not operate a motor vehicle in this state under a license, permit, or registration certificate issued by any other jurisdiction or otherwise during the suspension or after the revocation until a new license is obtained when and as permitted under this chapter.

(2) The privilege of driving a motor vehicle on the highways of this state given to a nonresident hereunder is subject to suspension or revocation by the department in like manner and for like cause as an operator’s or chauffeur’s license issued under this chapter may be suspended or revoked.

(3) The department is further authorized, upon receiving a record of the conviction in this state of a nonresident driver of a motor vehicle of any offense under the motor vehicle laws of this state, to forward a certified copy of the record to the motor vehicle administrator in the state wherein the person so convicted is a resident.

(4) The department is authorized to suspend or revoke the license of any resident of this state or the privilege of a nonresident to drive a motor vehicle in this state upon receiving notice of the conviction of the person in another state of an offense therein which, if committed in this state, would be grounds for the suspension or revocation of the license of an operator or chauffeur.

(f)(1) The department shall not suspend a driver license or privilege to drive a motor vehicle on the public highways for a period of more than six (6) months for a first offense nor more than one (1) year for a subsequent offense, except as permitted under § 55-50-504, unless in any case an order of a court provides for a longer period of suspension. At the end of the period for which a license has been suspended, the department is authorized, in its discretion, to require a reexamination of the licensee as a prerequisite to the reissuance of the license.

(2) Any person whose license is suspended for driving under the influence of drugs or intoxicants, or for refusal to submit to a blood test under §§ 55-10-406 and 55-10-407, shall have the period of suspension computed from the time that the person’s driver license was actually taken from the person’s possession, and the period of license suspension shall begin to run from that point until the license is returned.

(3) Any person whose license or privilege to drive a motor vehicle on the public highways has been revoked shall not be entitled to have the license or
privilege renewed or restored unless the revocation was for a cause that has been removed, except that after the expiration of one (1) year or the period of suspension prescribed by a court from the date on which the revoked license was surrendered to and received by the department, the person may make application for a new license as provided by law, but the department shall not issue a new license unless and until it is satisfied after investigation of the character, habits and driving ability of the person that it will be safe to grant the privilege of driving a motor vehicle on the public highways. No license that has been revoked, on account of the conviction of the licensee for murder or manslaughter resulting from the operation of a motor vehicle, shall be reissued except as provided in § 55-50-501(a)(1).

(4) Where the revocation involved is the first revocation of the license or privilege of the person, the application for a new license may be made after the expiration of six (6) months from the date on which the revoked license was surrendered and received by the department. No license that has been revoked on account of the conviction of the licensee for murder or manslaughter resulting from the operation of a motor vehicle shall be reissued except as provided in § 55-50-501(a)(1).

(g) When considering the suspension of a driver license, the department may take into account offenses committed by that driver outside this state and reported to the department only if the offenses would, under the laws of this state, be considered grounds for suspension in this state. If the offenses would be grounds for suspension in the state of conviction, but not in this state they shall be disregarded by the department.

(h) Drivers of commercial motor vehicles shall have their licenses suspended for violations and for the length of time specified in § 55-50-405.

(i)(1) The department shall establish a method by which any person who makes application for or who holds a commercial driver license may elect an alternate address to which any suspension notices shall be mailed.

(2) At least two (2) times per month during two (2) different weeks of the month, the department shall make available for public inspection a list of persons whose commercial driver license has been suspended.

(j)(1) The court shall require every licensee who is convicted of a driving offense and who does not pay the assessed fines and costs in full on the date of disposition to make payments pursuant to an installment payment plan.

(2) The clerk of any court that handles traffic citations shall offer a payment plan, which must be reasonable and based on a person’s income and ability to pay, to any person convicted of a driving offense.

(3) A person may request, and the court clerk shall grant, modifications to a payment plan upon a change in the person’s financial circumstances or upon good cause shown. If the request for modification is denied by a deputy clerk, then the person may appeal the denial to the chief clerk. If a request for modification is denied by the chief clerk, then the person may petition the court for modifications to the payment plan based upon a change in the person’s financial circumstances or upon good cause shown.

(4)(A) The court clerk shall inform a person who enters into a payment plan pursuant to this subsection (j) that:

(i) Failure to timely make the payments as ordered by the court results in the suspension of the person’s license and the issuance of a restricted license; and

(ii) Any default on the payment plan while the person is issued a restricted license results in the revocation of the restricted license and
the person's driving privileges as described in subdivision (j)(6).

(B) The court clerk shall notify the department of a person's failure to comply with a payment plan established pursuant to this subsection (j).

(C)(i) Upon notice of the person's failure to comply with the payment plan established pursuant to this subsection (j), the department shall notify the person in writing of the pending suspension of the person's license and instruct the person to contact the appropriate court clerk within the time period described in this subdivision (j)(4)(C).

(ii) A person has thirty (30) days from the date the department sends the notice described in subdivision (j)(4)(C)(i) to reestablish compliance with the payment plan or petition the court clerk or court and demonstrate that the person has, in fact, complied with the court clerk's payment plan.

(iii) If the person reestablishes compliance with the payment plan or demonstrates to the court clerk or court that the person complied with the court clerk's payment plan, then the court clerk shall issue a receipt or other documentation to the person. If the person presents the receipt or other documentation to the department prior to the expiration of the thirty-day period described in subdivision (j)(4)(C)(ii), then the department shall not suspend the person's license.

(iv) A person who fails to reestablish compliance with the payment plan or demonstrate to the court clerk or court's satisfaction that the person complied with the court clerk's payment plan and whose license is suspended in accordance with this subdivision (j)(4) may apply to the court for the issuance of a restricted license. The court shall order the issuance of a restricted license if the person is otherwise eligible for a driver license.

(D) If the person does not present the receipt or other documentation to the department prior to the expiration of the thirty-day period, then the department shall suspend the person's license. Upon the person presenting a certified copy of the court order and paying the application fee to the department in accordance with subdivision (j)(5)(B), the department shall issue a restricted license in place of the suspended license.

(5)(A) A restricted license issued pursuant to this subsection (j) is valid only for travel necessary for:

(i) Employment;

(ii) School;

(iii) Religious worship;

(iv) Participation in a recovery court, which includes drug courts under the Drug Court Treatment Act of 2003, compiled in title 16, chapter 22; DUI courts; mental health courts; and veterans treatment courts; or

(v) Serious illness of the person or an immediate family member.

(B) The order for the issuance of a restricted license must state with all practicable specificity the necessary times and places of permissible operation of a motor vehicle. The person may obtain a certified copy of the order and, within ten (10) days after the order is issued, present it, together with an application fee of sixty-five dollars ($65.00), to the department, which shall issue a restricted license embodying the limitations imposed in the order. After proper application and until the restricted license is issued, a certified copy of the order may serve in lieu of
a driver license.

(6)(A) If a person who is issued a restricted license fails to comply with a payment plan established pursuant to this subsection (j), the court clerk shall notify the department of the person's failure to comply with the payment plan.

(B)(i) Upon notice of the person's failure to comply with the payment plan, the department shall notify the person in writing of the pending revocation of the person's restricted license and instruct the person to contact the appropriate court clerk within the time period described in this subdivision (j)(6)(B).

(ii) A person has thirty (30) days from the date the department sends the notice described in subdivision (j)(6)(B)(i) to reestablish compliance with the payment plan or petition the court clerk or court and demonstrate that the person has, in fact, complied with the court clerk's payment plan.

(iii) If the person reestablishes compliance with the payment plan or demonstrates to the court clerk or court that the person complied with the court clerk's payment plan, then the court clerk shall issue a receipt or other documentation to the person. If the person presents the receipt or other documentation to the department prior to the expiration of the thirty-day period described in subdivision (j)(6)(B)(ii), then the department shall not revoke the person's restricted license.

(C) If the person does not present the receipt or other documentation to the department prior to the expiration of the thirty-day period, then the department shall revoke the person's restricted license.

(D) No sooner than six (6) months from the date of revocation, a person whose restricted license is revoked pursuant to this subdivision (j)(6) may apply with the court clerk for a certification that the person is eligible to be reissued a restricted license; provided, that the person must be actively participating in an installment payment plan in accordance with subdivision (j)(2).

(E) Upon the person's application for a certification that the person is eligible to receive a reissued restricted license pursuant to subdivision (j)(6)(D), the court clerk shall certify whether the person is actively participating in a payment plan and request the reissuance of a restricted driver license for the person if the person is otherwise eligible for a driver license. The certification must state with all practicable specificity the necessary times and places of permissible operation of a motor vehicle for purposes described in subdivision (j)(5)(A). The person may obtain a copy of the certification and, within ten (10) days after the certification is issued, present it, together with an application fee of sixty-five dollars ($65.00), to the department, which shall issue a restricted license embodying the limitations imposed in the certification. After proper application and until the restricted license is issued, a copy of the certification may serve in lieu of a driver license.

(7) Notwithstanding this subsection (j), a person will be issued a restricted license or have the person's license reinstated only if the person is otherwise eligible for a driver license.

(8) The process described by this subsection (j) applies until the person fully pays the moneys owed the court or any outstanding fines or costs are waived by the court.
(9) If otherwise eligible for a driver license, any person whose driver license was suspended under subdivision (a)(1)(H), prior to July 1, 2019, for nonpayment of court costs or fines may apply to the court having original jurisdiction over the traffic offense for an order reinstating the person’s license upon entering into an installment payment plan under this subsection (j). The person may present a certified copy of the court’s order to the department of safety, which shall reissue a driver license at no cost to the person if the person is otherwise eligible for a driver license.

(10) A restricted license issued under this subsection (j) shall not be subject to the requirements of § 55-12-114(b).

(k)(1) This subsection (k) shall apply only in any municipality located in any county having a population in excess of eight hundred thousand (800,000), according to the 2000 federal census or any subsequent federal census.

(2) Notwithstanding § 28-3-110, the court clerk of any municipality may establish an accounts receivable amnesty plan for payment of any outstanding judgment resulting from failure to pay local fines or costs owed by a person whose license has been suspended, pursuant to subdivision (a)(1)(H) or (a)(1)(I). The plan shall allow the person to pay the outstanding judgment, older than ten (10) years after the cause of action has commenced, at a reduced rate of fifty percent (50%) during the first six fiscal months of each year.

(3) The department is authorized to reinstate a person’s driving privileges when the person provides the department with certification from the court clerk of any municipality that the person has paid pursuant to this subsection (k) and has satisfied all other provisions of law relating to the issuance and restoration of a driver license.

56-1-211. Office to assist older persons concerning insurance.

(a) The commissioner shall establish within the department an office to assist older Tennesseans in understanding, evaluating, and comparing insurance products available to them. The projects, programs, and services of the office shall be coordinated with those of the commission on aging and disability created by § 71-2-104. The office shall devote particular attention to addressing questions involving medicare supplement insurance policies.

(b) Subject to the limits of any appropriation by the general assembly, the commissioner may, through the office established under subsection (a):

(1) Employ or contract for the services of a consultant approved by the commission on aging and disability;

(2) Train the consultant to meet with and appear before senior citizens groups to disseminate and gather information on insurance products of interest to them;

(3) Develop a computer system capable of comparing features and rates of various insurance policies;

(4) Reimburse volunteers for travel expenses incurred in connection with the performance of duties assigned by the office; and

(5) Undertake any other activities that are reasonably necessary to accomplish the purposes of this section.

56-6-102. Part definitions.

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

(1) “Business entity” means a corporation, association, partnership, lim-
ited liability company, limited liability partnership, or other legal entity;

(2) “Commissioner” means the commissioner of commerce and insurance;

(3) “Crop insurance” means insurance providing protection against damage to crops from unfavorable weather conditions, fire or lightning, flood, hail, insect infestation, disease, or other yield-reducing conditions or perils provided by the private insurance market, or that is subsidized by the Federal Crop Insurance Corporation, including multi-peril crop insurance;

(4) “Department” means the department of commerce and insurance;

(5) “Home state” means any state or territory of the United States and the District of Columbia in which an insurance producer maintains a principal place of residence or principal place of business and is licensed to act as an insurance producer;

(6) “Insurance” means any of the lines of authority in § 56-2-201;

(7) “Insurance producer” means a person required to be licensed under the laws of this state to sell, solicit or negotiate insurance;

(8) “Insurer” means any insurance company authorized to transact insurance business in this state;

(9) “License” means a document issued by this state’s commissioner authorizing a person to act as an insurance producer for the lines of authority specified in the document. The license itself does not create any authority, actual, apparent or inherent, in the holder to represent or commit an insurance carrier;

(10) “Limited line credit insurance” includes credit life, credit disability, credit property, credit unemployment, involuntary unemployment, mortgage life, mortgage guaranty, mortgage disability, guaranteed automobile protection (gap) insurance, and any other form of insurance offered in connection with an extension of credit that is limited to partially or wholly extinguishing that credit obligation that the commissioner determines should be designated a form of limited line credit insurance;

(11) “Limited line credit insurance producer” means a person who sells, solicits or negotiates one or more forms of limited line credit insurance coverage to individuals through a master, corporate, group or individual policy;

(12) “Limited lines insurance” means those lines of insurance defined in § 56-6-110 or any other line of insurance that the commissioner deems necessary to recognize for the purposes of complying with § 56-6-108(e);

(13) “Limited lines producer” means a person authorized by the commissioner to sell, solicit or negotiate limited lines insurance;

(14) “NAIC” means the National Association of Insurance Commissioners;

(15) “Negotiate” means the act of conferring directly with or offering advice directly to a purchaser or prospective purchaser of a particular contract of insurance concerning any of the substantive benefits, terms or conditions of the contract; provided, that the person engaged in that act either sells insurance or obtains insurance from insurers for purchasers;

(16) “Person” means an individual or a business entity;

(17) “Sell” means to exchange a contract of insurance by any means, for money or its equivalent, on behalf of an insurance company;

(18) “Solicit” means attempting to sell insurance or asking or urging a person to apply for a particular kind of insurance from a particular company;

(19) “Surplus lines producer” means a person authorized by the commissioner to sell, solicit or negotiate surplus lines insurance pursuant to the
Surplus Lines Insurance Act, compiled in chapter 14 of this title. The person shall have the same authority given to a surplus lines agent licensed under the Surplus Lines Insurance Act;

(20) “Terminate” means the cancellation of the relationship between an insurance producer and the insurer or the termination of a producer’s authority to transact insurance;

(21) “Uniform application” means the current version of the NAIC uniform application for resident and nonresident producer licensing; and

(22) “Uniform business entity application” means the current version of the NAIC uniform business entity application for resident and nonresident business entities.

56-6-110. Limited lines producers.

An individual who has met the requirements of § 56-6-106 shall be entitled to a limited lines producer license without examination in one (1) or more of the following limited lines:

(1) Travel insurance;

(2) Credit life, credit accident and health insurance, or involuntary unemployment credit insurance;

(3) Mortgage guaranty insurance;

(4) Personal property insurance sold to a debtor under a master group policy issued to a creditor;

(5) Crop insurance;

(6) Title insurance; provided, that the limited lines producer is an attorney, duly licensed in this state, who acts as a title insurance agent as an ancillary part of the attorney’s practice of law;

(7) Any other lines that the commissioner finds by rule are essential for the transaction of business in this state and do not require the professional competency demanded by an insurance producer’s license;

(8) Portable electronics insurance; or

(9) Self-service storage insurance.

56-6-113. Commissions.

(a) An insurer or insurance producer shall not pay a commission, service fee, brokerage fee or other valuable consideration to a person for selling, soliciting or negotiating insurance in this state if that person is required to be licensed under this part and is not so licensed.

(b) A person shall not accept a commission, service fee, brokerage or other valuable consideration for selling, soliciting or negotiating insurance in this state if that person is required to be licensed under this part and is not so licensed.

(c) Renewal or other deferred commissions may be paid to a person for selling, soliciting or negotiating insurance in this state if the person was required to be licensed under this part at the time of the sale, solicitation or negotiation and was so licensed at that time.

(d) An insurer or insurance producer may pay or assign commissions, service fees, brokerages or other valuable consideration to an insurance agency or to persons who do not sell, solicit or negotiate insurance in this state, unless the payment would violate § 56-8-104(5) or (8).

(e) An unlicensed person may make a referral to a licensed insurance
producer if the person does not discuss the specific insurance policy terms and conditions. Except as prohibited by federal law, the unlicensed person may be compensated for the referral. However, an unlicensed person who is neither employed by nor affiliated with the licensed insurance producer may be compensated only if the compensation is a fixed dollar amount, not to exceed twenty-five dollars ($25.00) or such lesser amount as the commissioner may establish by rule, for each referral. In either event, the referral compensation must not depend on whether the referred customer purchases an insurance product from the licensed insurance producer.

56-6-125. Unfair trade practices.

(a) It is an unfair trade practice for an insurance producer to:

(1) Hold the insurance producer out, directly or indirectly, to the public as a financial planner, investment adviser, consultant, financial counselor, risk manager or any other specialist engaged in the business of giving financial planning, risk management or advice relating to investments, insurance, real estate, tax matters or trust and estate matters when the person is in fact engaged only in the sale of insurance policies. This subdivision (a)(1) does not preclude persons who hold some form of formal recognized financial planning, risk management or consultant certification or designation from using this certification or designation when they are only selling insurance;

(2) Engage in the business of financial planning without disclosing to the client prior to the execution of the agreement provided for in subdivision (a)(3), or solicitation of the sale of a product or service, that:

(A) The person is also an insurance salesperson; and

(B) That a commission for the sale of an insurance product will be received in addition to a fee for financial planning, if such is the case. The disclosure requirement under this subsection (a) may be met by including it in any disclosure required by federal or state securities law; or

(3) Charge fees for the sale, solicitation or negotiation of insurance not authorized by a written agreement with an insurer, and, where applicable, incorporated in the insurer’s rate filing. An insurance producer may charge fees for services not connected with the sale, solicitation and negotiation of insurance by the insurance producer if the fees are based upon a qualified written agreement, signed by the party to be charged in advance of the performance of the services under the agreement. A copy of the qualifying agreement must be provided to the party to be charged at the time the agreement is signed by the party. The agreement shall be considered as qualifying if it includes:

(A) The services for which the fee is to be charged;

(B) The amount of the fee to be charged or how it will be determined or calculated; and

(C) A disclosure stating that the client is under no obligation to purchase any insurance product through the insurance producer or consultant. The insurance producer shall retain a copy of the agreement for not less than three (3) years after completion of services, and a copy shall be available to the commissioner upon request.

(b) Notwithstanding subsection (a) or this title, an insurance producer may charge fees for services relating to an individual’s purchase of an individual major medical policy as defined in § 56-12-204(c)(3)(C) [See Compiler’s Note],
where the insurer is not paying commission to the insurance producer, if the fees are based upon a qualified written agreement signed by the party to be charged in advance of the performance of the services under the agreement. An agreement under this subsection (b) is qualified if it meets the requirements contained in subdivisions (a)(3)(A)-(C).

(c) Except as otherwise provided in subsections (a) and (b), this section does not permit persons to charge an additional fee for services that are associated with the sale, solicitation, negotiation, or servicing of insurance policies.

56-7-102. Policies to contain entire contract — Exceptions — Con-
structed as Tennessee contracts — Rules of construction —
Duty to defend — Determination of obligations.

(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.

(f) An insurance company may determine its obligations under a policy of insurance as to any and all parties or claimants through a declaratory judgment action, an interpleader claim or action, or both. The filing of such action or claim creates a rebuttable presumption the insurance company is acting in good faith when making a determination of its obligations under a policy of insurance.

56-7-120. Assignment of benefits to health care provider.

(a) 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.

(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 § 68-11-201, or an ambulatory surgical treatment center as defined in § 68-11-201;
(4) “Healthcare provider” means any doctor of medicine, osteopathy, dentistry, chiropractic, podiatry, or optometry; a pharmacist or pharmacy; a hospital; a home health agency; an entity providing infusion therapy services; or an entity providing medical equipment services;
(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; and
(6) “Stabilized” means, with respect to an emergency medical condition, that no material deterioration of the condition is likely, within a reasonable medical probability, to result from or occur during transfer of the individual from a facility.
(c)(1) For purposes of this subsection (c):
(A) “In-network healthcare facility” means a healthcare facility 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 of copay, deductible, or coinsurance, or range of estimates that the facility will charge the insured for
scheduled items or services provided by the facility in accordance with
the insured’s health benefit coverage for the items and services or as
estimated by the insurance company on its website for its insured or
through the available information to the facility at the time of prior
authorization; and
(d) A listing of anesthesiologists, radiologists, emergency room
physicians, and pathologists or the groups of such healthcare provid-
ers with which the facility has contracted, including the healthcare
provider or group name, phone number, and website;
(ii) The insured or the insured’s personal representative signs the
written notice, acknowledging agreement to receive medical services by
an out-of-network provider or should the insured or insured’s personal
representative refuse to sign the written notice, the healthcare facility
documents in the patient’s medical record that it provided the notice and
that the patient refused to sign the notice; and
(iii) The written notice includes the following statement:

The physicians and other healthcare 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 physi-
cian. If the insured is receiving medical services through a hospital emer-
gency 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 assign-
ment 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.

(e) An in-network healthcare facility does not need to provide an insured with the notice required in subdivision (c)(2) if the healthcare facility employs all facility-based physicians or requires all facility-based physicians to participate in all of the insurance networks in which the healthcare facility is a participating provider or if the healthcare facility contractually prohibits all facility-based physicians from balance billing patients in excess of the cost sharing amount required in accordance with the insured’s health benefits coverage for the items and services provided.

56-7-601. Short title. [Effective on January 1, 2020.]

This part shall be known and may be cited as the “Tennessee Right to Shop Act.”

56-7-2207. Health benefit plans — Preexisting conditions — Late enrollees — Premiums — Transfers — Place of business — Filings — Documentation.

(a) Health benefit plans covering small employers are subject to the following:

(1) Except in the case of a late enrollee, any preexisting conditions provision may not limit or exclude coverage for a period beyond twelve (12) months following the insured’s effective date of coverage, and may only relate to conditions manifesting themselves in a manner that would cause an ordinarily prudent person to seek medical advice, diagnosis, care or treatment; for which medical advice, diagnosis, care or treatment was recommended or received during the twelve (12) months immediately before the effective date of coverage, or as to a pregnancy existing on the effective date of coverage;

(2) In determining whether a preexisting conditions provision applies to an eligible employee or to a dependent, all health benefit plans shall credit
the time the person was covered under a previous group health benefit plan if the previous coverage was continuous to a date not more than thirty (30) days before the effective date of the new coverage, exclusive of any applicable waiting period under the plan;

(3)(A) The health benefit plan is renewable with respect to all eligible employees or dependents at the option of the policyholder or contract holder except:

(i) For nonpayment of the required premiums by the policyholder or contract holder;
(ii) For fraud or misrepresentation of the policyholder or contract holder or, with respect to coverage of individual enrollees, the enrollees or their representatives;
(iii) For noncompliance with plan provisions that have been approved by the commissioner;
(iv) When the number of enrollees covered under the plan is fewer than the number of insureds or percentage of enrollees required by participation requirements under the plan;
(v) When the policyholder or contract holder is no longer actively engaged in the business in which it was engaged on the effective date of the plan; or
(vi) When the small employer carrier stops writing new business in the small employer market, if the employer:
   (a) Provides notice to the department and either to the policyholder, contract holder or employer of its decision to stop writing new business in the small employer market; and
   (b) Does not cancel health benefit plans subject to this part for one hundred eighty (180) days after the date of the notice required under subdivision (a)(3)(A)(vi)(a); and for that business of the carrier that remains in force, the carrier shall continue to be governed by this part with respect to business conducted under this part;

(B) A small employer carrier that stops writing new business in the small employer market in this state after January 1, 1993, shall be prohibited from writing new business in the small employer market in this state for a period of five (5) years from the date of notice to the commissioner. In the case of an HMO doing business in the small employer market in one (1) service area of this state, the rules set forth in this subdivision (a)(3) shall apply to the HMO’s operations in the service area, unless § 56-7-2208(g) [repealed] applies;

(4) Late enrollees may be excluded from coverage for the greater of eighteen (18) months or an eighteen-month preexisting condition exclusion; however, if both a period of exclusion from coverage and a preexisting condition exclusion are applicable to a late enrollee, the combined period shall not exceed eighteen (18) months; and

(5) A carrier may continue to enforce reasonable employer participation and contribution requirements on small employers applying for coverage; however, participation and contributions requirements may vary among small employers only by the size of the small group.

(b) Premium rates for health benefit plans subject to this part are subject to the following:

(1) The index rate for a rating period for any class of business shall not exceed the index rate for any other class of business by more than twenty-five percent (25%), adjusted pro rata for any rating period of less
than one (1) year;

(2) For a class of business, the premium rates charged during a rating period to small employers with similar case characteristics for the same or similar coverage, or the rates that could be charged to those employers under the rating system for that class of business shall not vary from the index rate by more than thirty-five percent (35%) of the index rate, adjusted pro rata for any rating period of less than one (1) year;

(3) The percentage increase in the premium rate charged to a small employer for a new rating period, adjusted pro rata for any rating period of less than one (1) year, may not exceed the sum of the following:

(A) The percentage change in the new business premium rate measured from the first day of the prior rating period to the first day of the new rating period. If a small employer carrier is not issuing any new policies, but is only renewing policies, the carrier shall use the percentage change in the base premium rate;

(B) Any adjustment, not to exceed fifteen percent (15%) annually and adjusted pro rata for any rating period of less than one (1) year, due to the claim experience, health status, or duration of coverage of the employees or dependents of the small employer as determined from the small employer carrier's rate manual for the class of business;

(C) Any adjustment because of a change in coverage or change in the case characteristics of the small employer as determined from the small employer carrier's rate manual for the class of business;

(4) Premium rates for health benefit plans shall comply with the requirements of this section, notwithstanding any reinsurance premiums and assessments paid or payable by small employer carriers in accordance with § 56-7-2221 [repealed];

(5) In any case where a small employer carrier uses industry as a case characteristic in establishing premium rates, the rate factor associated with any industry classification may not vary from the arithmetic average of the rate factors associated with all industry classifications by greater than fifteen percent (15%) of coverage;

(6) Small employer carriers shall apply rating factors including case characteristics consistently with respect to all small employers in a class of business. Adjustments in rates for claims experience, health status and duration from issue may not be applied individually. Any such adjustment must be applied uniformly to the rate charged for all participants of the small employer; and

(7) Notwithstanding this title to the contrary, neither the definition of case characteristics in § 56-7-2203, nor this chapter, prohibits a pool created under § 56-26-204 from using case characteristics, claim experience, health status, or duration of coverage since issue in determining initial or adjusted premium rates for employers pooling their liabilities under § 56-26-204.

(c) All premium rates for a small employer carrier shall be subject to the review and approval or disapproval of the commissioner as provided for in § 56-26-102 and any regulations promulgated under the authority of that section. Section 56-26-102 and regulations shall apply to all plans subject to this section in the same manner as to accident and sickness policies subject to § 56-26-102.

(d) A small employer carrier shall not involuntarily transfer a small employer into or out of a class of business. A small employer carrier shall not
offer to transfer a small employer into or out of a class of business unless the carrier offers to transfer all small employers in the class of business without regard to case characteristics, claims experience, health status or duration of coverage since issue.

(e) In connection with the offering for sale of any health benefit plan to a small employer, each small employer carrier shall make a reasonable disclosure as part of its solicitation and sales materials of:

(1) The extent to which premium rates for a specified small employer are established or adjusted in part based upon the actual or expected variation in claims costs, or actual or expected variation in health condition of the eligible employees and dependents of the small employer;

(2) Provisions concerning the small employer carrier’s right to change premium rates and the factors other than claims experience that affect changes in premium rates;

(3) Provisions relating to renewability of policies and contracts; and

(4) Provisions affecting any preexisting conditions provision.

(f) Each small employer carrier shall maintain at its principal place of business a complete and detailed description of its rating practices and renewal underwriting practices, including information and documentation that demonstrate that its rating methods and practices are based upon commonly accepted actuarial assumptions and are in accordance with sound actuarial principles.

(g) Each small employer carrier shall file with the commissioner annually, on or before March 15, an actuarial certification certifying that it is in compliance with this part and that its rating methods are actuarially sound. The small employer carrier shall retain a copy of the certification at its principal place of business.

(h) A small employer carrier shall make the information and documentation described in subsection (f) available to the commissioner upon request. Except in cases of violations of this part, the information is proprietary and trade secret information and is not subject to disclosure by the commissioner to persons outside the department except as agreed to by the small employer carrier or as ordered by a court of competent jurisdiction.

(i) Subdivisions (a)(1), (3) and (5) and subsections (b) and (d)-(h) apply to health benefit plans delivered, issued for delivery, renewed or continued in this state or covering persons residing in this state on or after January 1, 1993. Subdivisions (a)(2) and (4) apply to health benefit plans delivered, issued for delivery, renewed or continued in this state or covering persons residing in this state on or after the date the plan becomes operational, as designated by the commissioner. For purposes of this subsection (i), the date a health benefit plan is continued is the anniversary date of the issuance of the health benefit plan.

56-7-2327. Coverage of proton therapy. [Effective January 1, 2020; expires effective January 1, 2023.]

(a) This section shall be known and may be cited as the “Proton Therapy Access Act.”

(b) As used in this section:

(1) “Aggregate amount” means the total amount paid under the state group insurance program for the applicable radiation treatment delivery CPT codes to deliver a biological effective dose;
(2) "Biological effective dose" means the total prescribed radiation dose delivered in a course of radiation therapy treatments to induce tumor cell death;

(3) "CPT code" means the unique numerical designations established by the American Medical Association for various medical, surgical, and diagnostic services used in billing healthcare services;

(4) "Eligible patient" means a cancer patient who is approved for a standard radiation therapy protocol delivered with IMRT by the state group insurance program's third-party administrator and prescribed a hypofractionated proton therapy protocol for the treatment of the same cancer;

(5) "Hypofractionated radiation therapy protocol" means a cancer treatment protocol that involves the delivery of fewer, larger radiation therapy treatment doses than a standard radiation therapy protocol to deliver a biological effective dose;

(6) "Intensity modulated radiation therapy" or "IMRT" means a type of conformal radiation therapy that delivers x-ray radiation beams of different intensities from many angles for the treatment of tumors;

(7) "Proton therapy" means the advanced form of radiation therapy that utilizes protons as the radiation delivery method for the treatment of tumors;

(8) "Radiation therapy" means the delivery of a biological effective dose with proton therapy, IMRT, brachytherapy, stereotactic body radiation therapy, three-dimensional conformal radiation therapy, or other forms of therapy using radiation;

(9) "Registry" means an organized system that uses observational study methods to collect uniform clinical data to evaluate specified outcomes for a population defined by a particular disease and is compliant with the principles established by the U.S. department of health and human services through their Agency for Healthcare Research and Quality's Registries for Evaluating Patient Outcomes: A User's Guide - Third Edition;

(10) "Standard radiation therapy protocol" means a cancer treatment protocol that involves the delivery of radiation therapy treatment doses over an extended period of time to deliver a biological effective dose;

(11) "State group insurance program" means health insurance provided under title 8, chapter 27; and

(12) "Treatment dose" means the amount of radiation delivered in a single treatment or fraction of radiation therapy.

(c) The state group insurance program shall cover a physician prescribed hypofractionated proton therapy protocol to deliver a biological effective dose by paying the same aggregate amount as would be paid for the delivery of the same biological effective dose with a standard radiation therapy treatment protocol delivered with IMRT for the same indication if the following conditions are satisfied:

(1) Coverage is provided to an eligible patient who is being treated as part of a clinical trial or registry;

(2) The eligible patient is diagnosed with a cancer type or indication that can be treated with a hypofractionated proton therapy protocol;

(3) The radiation oncologist prescribing the hypofractionated proton therapy protocol is board certified or board eligible in the specialty of radiation oncology; and

(4) The hypofractionated proton therapy protocol is administered in a facility in this state.

(d) If coverage of the hypofractionated proton therapy protocol is required
pursuant to subsection (c), then:

(1) The aggregate amount must be equal to the average cost actually paid by the state group insurance program for a standard IMRT treatment radiation therapy protocol required to deliver the prescribed biological effective dose for the particular indication. For purposes of this subdivision (d)(1), aggregate amounts must be established by reference to the amount paid for a course of IMRT treatment under a standard IMRT radiation therapy protocol for the indication under the state group insurance program; and

(2) Coverage is subject to annual deductible and co-insurance established for radiation therapy and other similar benefits within the policy or contract of insurance. The annual deductible and co-insurance for any radiation therapy delivery method permitted by this section must be no greater than the annual deductible and co-insurance established for all other similar benefits within a policy or contract of insurance.

(e) Notwithstanding any other provision of this section to the contrary, the aggregate amount:

(1) Reimbursed for the hypofractionated proton therapy protocol must not exceed the average aggregate amount paid by the state group insurance program for a course of IMRT treatment under a standard IMRT radiation therapy protocol to deliver the prescribed biological effective dose for the same indication;

(2) Chargeable to or payable by an eligible patient for a covered course of hypofractionated proton therapy by an in-network provider must not exceed the aggregate amount that would otherwise be chargeable to or payable by the eligible patient for a course of IMRT treatment under a standard IMRT radiation therapy protocol that is covered by the state group insurance program for the delivery of the same biological effective dose by an in-network provider; and

(3) Chargeable to or payable by an eligible patient for a covered course of hypofractionated proton therapy by an out-of-network provider must not exceed the aggregate amount that would otherwise be chargeable to or payable by the eligible patient for a course of treatment under a standard IMRT radiation therapy protocol that is covered by the state group insurance program for the delivery of the same biological dose by an out-of-network provider. However, the patient is not responsible for amounts above the allowable maximum charge.

(f) Notwithstanding § 56-7-1005, this section applies only to the state group insurance program.

(g) This section supplements the requirements of 42 U.S.C. § 300gg-8.

56-7-2914. Legislative review. [Effective until June 30, 2020. See the Compiler’s Notes.]

This part shall be reviewed annually by the commerce and labor committee of the senate, the insurance committee of the house of representatives, the finance, ways and means committee of the senate and the finance, ways and means committee of the house of representatives, and these committees shall recommend necessary changes to the governor and the general assembly.
56-7-3103. Audit of records of pharmacist or pharmacy.

(a) When an audit of records of a pharmacist or pharmacy is conducted by a covered entity, a pharmacy benefits manager, the state or its political subdivisions, or any other entity representing the same, it shall be conducted in the following manner:

(1) Written notice shall be given to the pharmacist or pharmacy at least two (2) weeks prior to conducting the initial on-site audit for each audit cycle;

(2) Any audit performed under this section that involves clinical or professional judgment shall be conducted in consultation with a pharmacist who has knowledge of the Tennessee Pharmacy Practice Act, compiled in title 63, chapter 10, parts 2-4;

(3) Any clerical or recordkeeping error identified during an audit, such as a typographical error, scrivener’s error, omission, or computer error, does not, in and of itself, constitute fraud or intentional misrepresentation and must not be the basis of a recoupment unless the error results in an actual overpayment to the pharmacy or the wrong medication being dispensed to the patient. Notwithstanding any other law to the contrary, no such claim is subject to criminal penalties without proof of intent to commit fraud;

(4) A pharmacist or pharmacy may use the records of a hospital, physician, or other authorized practitioner of the healing arts for drugs or medical supplies written or transmitted by any means of communication for purposes of validating pharmacy records with respect to orders or refills of a legend or narcotic drug;

(5) A finding of overpayment or underpayment may be a projection based on the number of patients served having a similar diagnosis or on the number of similar orders or refills for similar drugs; however, recoupment of claims must be based on the actual overpayment or underpayment, unless the projection for overpayment or underpayment is part of a settlement as agreed to by the pharmacist or pharmacy;

(6) Each pharmacist or pharmacy shall be audited under the standards and parameters as other similarly situated pharmacists or pharmacies audited by a covered entity, a pharmacy benefits manager, the state or its political subdivisions, or any other entity representing the same;

(7) A pharmacist or pharmacy must be allowed the length of time described in the pharmacist’s or pharmacy’s contract or provider manual, whichever is applicable, which must not be less than thirty (30) days, following receipt of the preliminary audit report in which to produce documentation to address any discrepancy found during an audit. A pharmacist or pharmacy may correct a clerical or recordkeeping error by submitting an amended claim during the designated time frame if the prescription was dispensed according to the requirements of state and federal law. If the pharmacist’s or pharmacy’s contract or provider manual does not specify the allowed length of time for the pharmacist or pharmacy to address any discrepancy found in the audit following receipt of the preliminary report, then that pharmacist or pharmacy must be allowed no less than thirty (30) days following receipt of the preliminary audit report to respond and produce documentation;

(8) The period covered by an audit may not exceed two (2) years from the date the claim was submitted to or adjudicated by a covered entity, a pharmacy benefits manager, the state or its political subdivisions, or any other entity representing the same, except this subdivision (a)(8) shall not
apply where a longer period is required by any federal rule or law;

(9) An audit shall not be initiated or scheduled during the first seven (7) calendar days of any month due to the high volume of prescriptions filled during that time, unless otherwise consented to by the pharmacist or pharmacy;

(10) The preliminary audit report must be delivered to the pharmacist or pharmacy within one hundred twenty (120) days after conclusion of the audit. A final audit report shall be delivered to the pharmacist or pharmacy within six (6) months after receipt of the preliminary audit report or final appeal, whichever is later;

(11) Notwithstanding any other law to the contrary, any audit of a pharmacist or pharmacy shall not use the accounting practice of extrapolation in calculating recoupments or penalties for audits; and

(12) Any recoupment related to clerical or recordkeeping errors must not include the cost of the drug or dispensed product, except in cases of the following:

(A) Fraud or other intentional and willful misrepresentation;

(B) Dispensing in excess of the pharmacy benefits contract established by the plan sponsor; or

(C) Prescriptions not filled in accordance with the prescriber’s order.

(b) Recoupments of any disputed funds shall only occur after final internal disposition of the audit, including the appeal process as set forth in subsection (c).

(c) Each pharmacy benefits manager, as defined in § 56-7-3102, conducting an audit shall establish an appeals process under which a pharmacist or pharmacy may appeal an unfavorable preliminary audit report to the pharmacy benefits manager on whose behalf the audit was conducted. The pharmacy benefits manager conducting any audit shall provide to the pharmacist or pharmacy, before or at the time of delivery of the preliminary audit report, a written explanation of the appeals process, including the name, address and telephone number of the person to whom an appeal should be addressed. If, following the appeal, it is determined that an unfavorable audit report or any portion of the audit report is unsubstantiated, the audit report or the portion shall be dismissed without the necessity of further proceedings.

(d) A pharmacy provider may use any prescription that meets the requirements of being a legal prescription as defined by applicable Tennessee law to validate claims submitted for reimbursement for dispensing of original and refill prescriptions, or changes made to prescriptions.

(e) Auditors are permitted to enter the prescription department when accompanied by or authorized by a member of the pharmacy staff. During the auditing process, auditors shall not disrupt the provision of services to the pharmacy’s customers.

(f) A demand for recoupment, repayment or offset against future reimbursement for an overpayment on a claim for dispensing of an original or refill prescription shall not include the dispensing fee, unless the prescription that is the subject of the claim was not actually dispensed, was not valid, was fraudulent, or was outside the contract. This subsection (f) shall not apply where a pharmacy is requested, pursuant to a contractual provision or to § 56-7-2362(b) or § 56-32-138(b), to correct an error in a claim submitted in good faith.

(g) Audit information from an audit conducted by one pharmacy benefits
manager shall not be shared with or utilized by another pharmacy benefits manager. This subsection (g) shall not apply to an investigative audit that is believed by the pharmacy benefits manager to involve fraud or willful misrepresentation.

(h) Unless otherwise agreed to by contract, no audit finding or demand for recoupment, repayment or offset against future reimbursement shall be made for any claim for dispensing of an original or refill prescription for the reason of information missing from a prescription or for information not placed in a particular location on a prescription when the information or location of the information is not required or specified by federal or state law.

(i) In the event the actual quantity dispensed on a valid prescription for a covered beneficiary exceeds the allowable maximum days supply of the product as defined in the applicable pharmacy benefit provider agreement, the amount allowed to be recouped, repaid or offset against future reimbursement shall be limited to an amount that is calculated based on the quantity of the product dispensed found to be in excess of the allowed days supply quantity and using the cost of the product as reflected on the original claim.

(j) A pharmacy provider shall be allowed to dispense and shall be reimbursed for the full quantity of the smallest available commercially packaged product, including, but not limited to, eye drops, insulin, and topical products, which contains the total amount that is required to be dispensed to meet the days supply ordered by the prescriber, even if the full quantity of the commercially prepared package exceeds the maximum days supply allowed.

(k) The highest daily total dose which may be utilized by the patient pursuant to the prescriber’s directions shall be used to make a determination of the days supply. For prescriptions having a titrated dose schedule, the schedule shall be used to determine the days supply.

(l) Subsections (d)-(k) shall not apply to any investigative audit that involves allegations of fraud or willful misrepresentation.

56-7-3115. Prohibited charges.

A covered entity or pharmacy benefits manager shall not charge a pharmacist or a pharmacy a fee related to a claim unless it is apparent at the time of claim processing and is reported on the remittance advice of an adjudicated claim. This section does not prohibit a covered entity or pharmacy benefits manager from entering into an agreement with a pharmacy or pharmacist which includes prospective performance-based incentives and increases payment to pharmacies or pharmacists.

56-7-3116. Prohibited terms or conditions in contracts.

A covered entity or pharmacy benefits manager shall not include any term or condition in a contract with a pharmacy or pharmacist that requires a pharmacist to dispense a drug or other product to a patient contrary to a pharmacist’s professional judgment.

56-7-3117. Disclosure of material changes to contract provisions.

A covered entity or pharmacy benefits manager shall disclose to a pharmacy or pharmacist in its network, at least thirty (30) days before the date the change becomes effective, any material change to a contract provision that
affects the terms of reimbursement, the process for verifying benefits and eligibility, the dispute resolution procedure, the procedure for verifying drugs included in the formulary, and the procedure for contract termination. Nothing in this section prohibits a covered entity or pharmacy benefits manager from taking action without notice against a pharmacy or pharmacist in its network for a fraudulent claim or service.

56-7-3118. Mutual agreement on terms and conditions for provision of pharmacy services — Use of untrue, deceptive, or misleading advertisement, etc. prohibited — Effect of removal of pharmacist or pharmacy — Pattern or practice of reimbursing pharmacies or pharmacists lesser amount prohibited.

(a) Each contract between a covered entity or pharmacy benefits manager and a pharmacist or pharmacy must be mutually agreed upon and must outline the terms and conditions for the provision of pharmacy services.

(b) A covered entity or pharmacy benefits manager shall not cause or knowingly permit the use of any advertisement, promotion, solicitation, representation, proposal, or offer that is untrue, deceptive, or misleading.

(c) Removal of a pharmacy or a pharmacist from the network of a covered entity or pharmacy benefits manager does not release the covered entity or pharmacy benefits manager from the obligation to make any payment due to the pharmacy or pharmacist for services that have been properly rendered prior to the pharmacy being removed from the network. Properly rendered services do not include any services related to a fraudulent claim or intentional misrepresentation.

(d) A covered entity or pharmacy benefits manager shall not engage in a pattern or practice of reimbursing pharmacies or pharmacists in this state less than the amount that the pharmacy benefits manager reimburses a pharmacy benefits manager affiliate for providing the same drug or dispensed product or service.

56-8-104. Unfair trade practices defined.

The following practices are defined as unfair trade practices in the business of insurance by any person:

1) Misrepresentations and False Advertising of Insurance Policies. Making, issuing, circulating, or causing to be made, issued or circulated, any estimate, illustration, circular or statement, sales presentation, omission or comparison that:

   (A) Misrepresents the benefits, advantages, conditions or terms of any policy;
   (B) Misrepresents the dividends or share of the surplus to be received on any policy;
   (C) Makes a false or misleading statement as to the dividends or share of surplus previously paid on any policy;
   (D) Is misleading or is a misrepresentation as to the financial condition of any insurer, or as to the legal reserve system upon which any life insurer operates;
   (E) Uses any name or title of any policy or class of policies misrepresenting the true nature of the policy or class of policies;
(F) Is a misrepresentation, including any intentional misquote of premium rate, for the purpose of inducing or tending to induce the purchase, lapse, forfeiture, exchange, conversion or surrender of any policy; (G) Is a misrepresentation for the purpose of effecting a pledge or assignment of or effecting a loan against any policy; or (H) Misrepresents any policy as being shares of stock;

(2) **False Information and Advertising Generally.** Making, publishing, disseminating, circulating or placing before the public, or causing, directly or indirectly to be made, published, disseminated, circulated, or placed before the public, in a newspaper, magazine or other publication, or in the form of a notice, circular, pamphlet, letter or poster, or over any radio or television station, or in any other way, an advertisement, announcement or statement containing any assertion, representation or statement with respect to the business of insurance or with respect to any insurer in the conduct of its insurance business, that is untrue, deceptive or misleading;

(3) **Defamation.** Making, publishing, disseminating, or circulating, directly or indirectly, or aiding, abetting or encouraging the making, publishing, disseminating or circulating of any oral or written statement or any pamphlet, circular, article or literature that is false, or maliciously critical of or derogatory to the financial condition of any insurer, and that is calculated to injure the insurer;

(4) **Boycott, Coercion and Intimidation.**
   (A) Entering into any agreement to commit, or by any concerted action committing, any act or boycott, coercion or intimidation resulting in or tending to result in unreasonable restraint of or monopoly in, the business of insurance; or
   (B) By any act of boycott, coercion or intimidation, monopolizing or attempting to monopolize any part of the business of insurance; provided, that nothing in this subdivision (4)(B) shall be interpreted as defining or determining as an unfair method of competition or any unfair or deceptive act or practice in the business of insurance any act of boycott, coercion or intimidation on the part of any person, unless the act is committed in connection with an intention on the part of the person to monopolize, or attempt to monopolize, any material part of the business of insurance; and provided further, that no insurance company shall be held to have violated this subdivision (4)(B) because of any act of a producer of that company, which act has not been authorized or approved or acquiesced in by the company;

(5) **False Statements and Entries.**
   (A) Knowingly filing with any supervisory or other public official, or knowingly making, publishing, disseminating, circulating or delivering to any person, or placing before the public, or knowingly causing, directly or indirectly, to be made, published, disseminated, circulated, delivered to any person, or placed before the public, any false material statement of fact as to the financial condition of an insurer; or
   (B) Knowingly making any false entry of a material fact in any book, report or statement of any insurer or knowingly omitting to make a true entry of any material fact pertaining to the business of the insurer in any book, report or statement of the insurer, or knowingly making any false material statement to any insurance department official;

(6) **Stock Operations and Advisory Board Contracts.** Issuing or delivering or permitting agents, officers or employees to issue or deliver,
agency company stock or other capital stock, or benefit certificates or shares in any common law corporation, or securities or any special or advisory board contracts or other contracts of any kind promising returns and profits as an inducement to purchase insurance;

(7) **Unfair Discrimination.**

(A) Making or permitting any unfair discrimination between individuals of the same class and equal expectation of life in the rates charged for any life insurance policy or annuity or in the dividends or other benefits payable on any policy or annuity, or in any other of the terms and conditions of the policy;

(B)(i) Refusing life insurance to, refusing to continue life insurance of, or limiting the amount, extent, or kind of life insurance coverage available to an individual based on the individual's past lawful travel experiences; or

(ii)(a) Refusing life insurance to, refusing to continue life insurance of, limiting the amount, extent, or kind of life insurance available to an individual, or determining the premium of life insurance based on the individual's future lawful travel plans unless:

(1) The risk of loss for individuals who travel to a specified destination at a specified time is reasonably anticipated to be greater than if the individuals did not travel to that destination at that time; and

(2) The risk classification is based on sound actuarial principles and actual or reasonably anticipated experience;

(b) An action shall be deemed to meet the requirements for exemption under subdivision (7)(B)(ii)(a) if it is taken because either one (1) of the following is true with respect to the travel destination:

(1) The director of the centers for disease control and prevention of the department of health and human services has issued alerts or warnings regarding serious health-related conditions or an epidemic or pandemic alert or response; or

(2) There is an ongoing armed conflict involving the military of a sovereign nation foreign to the destination;

(iii)(a) The commissioner is authorized to promulgate rules necessary to implement this subdivision (7)(B) and is authorized to provide for limited exceptions that are based upon national or international emergency conditions that affect the public health, safety, and welfare and that are consistent with public policy;

(b) An insurer shall make any pertinent underwriting guidelines and supporting analyses available to the commissioner on request;

(C) Making or permitting any unfair discrimination between individuals of the same class and of essentially the same hazard in the amount of premium, policy fees or rates charged for any accident or health insurance policy or in the benefits payable under any accident or health insurance policy, or in any of the terms or conditions of the policy, or in any other manner;

(D) Making or permitting any unfair discrimination between individuals or risks of the same class and of essentially the same hazard by refusing to insure, refusing to renew, canceling or limiting the amount of insurance coverage on a property or casualty risk solely because of the geographic location of the risk, unless the action is the result of the application of sound underwriting and actuarial principles related to
actual or reasonably anticipated loss experience;

(E) Making or permitting any unfair discrimination between individuals or risks of the same class and of essentially the same hazards by refusing to insure, refusing to renew, canceling or limiting the amount of insurance coverage on the residential property risk, or the personal property contained in the residential property, solely because of the age of the residential property;

(F) Refusing to insure, refusing to continue to insure, or limiting the amount of coverage available to an individual because of the sex, race, religion, national origin, marital status, income, or educational background of the individual; however, nothing in this subdivision (7) shall prohibit an insurer from taking marital status into account for the purpose of defining persons eligible for dependent benefits and nothing shall prohibit price distinctions between persons pursuant to underwriting and actuarial principles;

(G) To terminate, or to modify coverage or to refuse to issue or refuse to renew any property or casualty policy solely because the applicant or insured or any employee of either is mentally or physically impaired; provided, that this subdivision (7) shall not apply to health care liability insurance or accident and health insurance sold by a casualty insurer; and, provided further, that this subdivision (7) shall not be interpreted to modify any other provision of law relating to the termination, modification, issuance or renewal of any insurance policy or contract; or

(H) Refusing to insure solely because another insurer has refused to write a policy, or has canceled or has refused to renew an existing policy in which that person was the named insured. Nothing contained in this subdivision (7)(H) shall prevent the termination of an excess insurance policy on account of the failure of the insured to maintain any required underlying insurance;

(8) Rebates.

(A) Except as otherwise expressly provided by law, knowingly permitting or offering to make or making any policy of insurance, including, but not limited to, any life insurance policy or annuity, or accident and health insurance or other insurance, or agreement as to the contract other than as plainly expressed in the policy issued thereon, or paying or allowing, or giving or offering to pay, allow, or give, directly or indirectly, as inducement to the policy, any rebate of premiums payable on the policy, or any special favor or advantage in the dividends or other benefits thereon, or any valuable consideration or inducement whatever not specified in the policy; or giving, or selling, or purchasing or offering to give, sell, or purchase as inducement to the policy or annuity or in connection with the policy or annuity, any stocks, bonds or other securities of any insurance company or other corporation, association or partnership, or any dividends or profits accrued thereon, or anything of value whatsoever not specified in the policy;

(B) Nothing in subdivision (7) or subdivision (8)(A) shall be construed as including within the definition of discrimination or rebates any of the following practices:

(i) In the case of life insurance policies or annuities, paying bonuses to policyholders or otherwise abating their premiums in whole or in part out of surplus accumulated from nonparticipating insurance, provided
that any such bonuses or abatement of premiums shall be fair and equitable to policyholders and for the best interests of the company and its policyholders;

(ii) In the case of life insurance policies issued on the industrial debit plan, making allowance to policyholders who have continuously, for a specified period, made premium payments directly to an office of the insurer in an amount that fairly represents the saving in collection expenses;

(iii) Readjusting the rate of premium for a group insurance policy based on the loss or expense under the group insurance policy, at the end of the first or any subsequent policy year of insurance under the group insurance policy, that may be made retroactive only for the policy year; or

(iv) Offering a child passenger restraint system or a discount in premium equal to the amount of the purchase price of a child passenger restraint system to policyholders, when the purpose of the restraint system is the safety of a child and complies with § 55-9-602;

(C) This subdivision (8) does not prohibit the payment of a fee to a trade or professional association exempt from income tax under § 501(c) of the Internal Revenue Code (26 U.S.C. § 501(c));

(9) **Prohibited Group Enrollments.** No insurer shall offer more than one (1) group policy of insurance through any person unless the person is licensed, at a minimum, as a limited lines producer; however, this prohibition shall not apply to employer/employee relationships, nor to any such enrollments;

(10) **Failure to Maintain Marketing and Performance Records.** Failure of an insurer to maintain its books, records, documents and other business records in such an order that data regarding claims, rating, underwriting and marketing are accessible and retrievable for examination by the insurance commissioner. Data for at least the current calendar year and the two (2) preceding years shall be maintained;

(11) **Failure to Maintain Complaint Handling Procedures.** Failure of any insurer to maintain a complete record of all the complaints it received since the date of its last examination under § 56-1-408. This record shall indicate the total number of complaints, their classification by line of insurance, the nature of each complaint, the disposition of each complaint, and the time it took to process each complaint. For purposes of this subdivision (11), “complaint” means a written communication expressing dissatisfaction or disagreement with the decision or action of an insurer; provided, however, that a communication submitted as part of the insurer’s usual and customary claims process shall not be considered as a complaint;

(12) **Misrepresentation in Insurance Applications.** Making false or fraudulent statements or representations on or relative to an application for a policy, for the purpose of obtaining a fee, commission, money or other benefit from any provider or individual person;

(13) **Failure to File or to Certify Information Regarding the Endorsement or Sale of Long-term Care Insurance.** Failure of any insurer to:

(A) File with the insurance department the following material:

(i) The policy and certificate;

(ii) A corresponding outline of coverage; and
(iii) All advertisements requested by the insurance department; or

(B) Certify annually that the association has complied with the responsibilities for disclosure, advertising, compensation arrangements, or other information required by the commissioner, as set forth by rule;

(14) **Failure to Provide Claims History.**

(A) Failure of a company issuing property and casualty insurance to provide the following loss information for the three (3) previous policy years to the first named insured within thirty (30) days of receipt of the first named insured's written request:

(i) On all claims, date and description of occurrence, and total amount of payments; and

(ii) For any occurrence not included in subdivision (14)(A)(i), the date and description of occurrence;

(B) Should the first named insured be requested by a prospective insurer to provide detailed loss information in addition to that required under subdivision (14)(A), the first named insured may mail or deliver a written request to the insurer for the additional information. No prospective insurer shall request more detailed loss information than reasonably required to underwrite the same line or class of insurance. The insurer shall provide information under this subdivision (14)(B) to the first named insured as soon as possible, but in no event later than twenty (20) days of receipt of the written request. Notwithstanding any other provision of this section, no insurer shall be required to provide loss reserve information, and no prospective insurer may refuse to insure an applicant solely because the prospective insurer is unable to obtain loss reserve information;

(C) The commissioner is authorized to promulgate rules to exclude the provision of the loss information as outlined in subdivision (14)(A) for any line or class of insurance where it can be shown that the information is not needed for that line or class of insurance, or where the provision of loss information otherwise is required by law;

(D) Information provided under subdivision (14)(B) shall not be subject to discovery by any party other than the insured, the insurer and the prospective insurer;

(15) **Unfair Replacement Transaction Practices.** Replacing a life insurance policy or an annuity contract in a manner contrary to rules promulgated by the commissioner pursuant to this part;

(16) **Unfair Utilization of Proprietary Information.** With respect to any policy of insurance underwritten in a pool, residual market mechanism, joint underwriting authority or assigned risk plan or through a plan depopulation initiative or other similar program, any information contained in a policy application or obtained in the servicing of such a policy of insurance cannot be used in any manner by the servicing carrier or its representatives for the purpose of soliciting any form of insurance, except when permission to use the information is granted by the commissioner on any specific risk;

(17) **Changing Classification and Rate After Policy Expiration or Renewal.** With respect to commercial risk insurance, making a change in the classification or rates either more than one (1) year after the policy's renewal date or the expiration date if the policy was not renewed without the written consent of the insured; provided, that no consent is necessary if the
change is in the favor of the insured. This subdivision (17) does not apply where the insured has failed to cooperate, given misleading information, or made material misrepresentations or omissions;

(18) Preferences or Distinctions in Certain Insurance Transactions prohibited.

(A) Making, offering to make, or permitting any preference or distinction in property, marine, casualty, or surety insurance as to form or policy, certificate, premium, rate, benefits, or conditions of insurance, based upon membership, nonmembership, or employment of any person or persons by or in any particular group, association, corporation, or organization, or making the preference or distinction available in any event based upon any fictitious grouping of persons;

(B) The restrictions and limitations of this subdivision (18) do not extend or apply to life, health and accident, disability or workers’ compensation insurance or to plans to provide legal services. Nothing in this subdivision (18) shall apply to any domestic company that confines its insurance business and operations to this state and to the provision of insurance solely for the benefit of its members, or members of its parent or sponsoring organization;

(C) Notwithstanding any other provision of this title, dues paid before or after March 22, 1996, to a nonprofit association, membership in which entitles the members to apply for insurance from insurance companies described in subdivision (18)(B), shall not be considered as gross premium or consideration for insurance;

(D) Notwithstanding any other provision of this title to the contrary, an insurer may make, offer to make, or permit a preference or distinction in property, marine, casualty or surety insurance as to form or policy, certificate, premium, rate, benefits or conditions of insurance based upon membership in an association of professionals with more than five thousand (5,000) dues-paying members in this state with members residing or practicing in at least eighty (80) counties within the state;

(19) Disclosure of Nonpublic Personal Information.


(B)(i) The commissioner shall not impose civil penalties against, or revoke or suspend the license of, a person who violates subdivision (19)(A), unless the violator intentionally violated subdivision (19)(A) or committed violations of subdivision (19)(A) in sufficient number as to indicate a lack of the use of due diligence on the part of the violator in complying with subdivision (19)(A);

(ii) For purposes of subdivision (19)(A):

(a) “Nonpublic personal information” means nonpublic personal information as defined in Title V of the Gramm-Leach-Bliley Act of 1999, Pub. L. No. 106-102; and

(b) “Person” means an entity or individual holding or required by law to hold a certificate of authority or license, or the functional equivalent of a certificate of authority or license, under this title;

(C) Any rules promulgated pursuant to this subdivision (19) shall be no more restrictive than Title V of the Gramm-Leach-Bliley Act of 1999, Pub. L. No. 106-102;
(20) **False, Misleading, Deceptive or Unfair Practices Concerning Sales to Members of the Armed Forces.** Notwithstanding any other provision in this title, the commissioner shall have the authority to adopt rules to protect service members of the United States armed forces from dishonest and predatory insurance sales practices by declaring certain identified practices to be false, misleading, deceptive or unfair; and

(21)(A) **Unauthorized Use of Lender Information.** It is unlawful for any person to make, publish, disseminate, circulate, or place before the public, or cause, directly or indirectly, to be made, published, disseminated, circulated or placed before the public, in a newspaper, magazine or other publication, or in the form of a notice, circular, pamphlet, letter or poster or over the Internet or any radio or television, or in any other way, an advertisement, announcement or statement containing any assertion, representation, or statement with respect to the sale, distribution, offering for sale or advertising of any loan, refinance, insurance or any other product or service that is untrue, deceptive, or misleading.

(B) It is unlawful for any person to commit any of the unlawful acts prohibited in § 45-2-1709(a)(1)(D) or (E).

(C) For purposes of this subdivision (21), “lender” means any bank, savings and loan association, savings bank, trust company, credit union, industrial loan and thrift company, mortgage company, mortgage broker, or any subsidiary or affiliate of a bank, savings and loan association, savings bank, trust company, credit union, industrial loan and thrift company, mortgage company, or mortgage broker.

56-9-103. Chapter definitions.

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

(1) “Ancillary state” means any state other than a domiciliary state;

(2) “Commissioner” means the commissioner of commerce and insurance;

(3) “Creditor” is a person having any claim, whether matured or unmatured, liquidated or unliquidated, secured or unsecured, absolute, fixed or contingent;

(4) “Delinquency proceeding” means any proceeding instituted against an insurer for the purpose of liquidating, rehabilitating, reorganizing or conserving the insurer, and any summary proceeding under § 56-9-201;

(5) “Doing business” includes any of the following acts, whether effected by mail or otherwise:

(A) The issuance or delivery of contracts of insurance to persons resident in this state;

(B) The solicitation of applications for the contracts, or other negotiations preliminary to the execution of the contracts;

(C) The collection of premiums, membership fees, assessments or other consideration for the contracts;

(D) The transaction of matters subsequent to execution of the contracts and arising out of them; or

(E) Operating under a license or certificate of authority, as an insurer, issued by the department of commerce and insurance;

(6) “Domiciliary state” means the state in which an insurer is incorporated or organized, or, in the case of an alien insurer, its state of entry;

(7) “Fair consideration” is given for property or an obligation:
(A) When in exchange for the property or obligation, as a fair equivalent therefor, and in good faith, property is conveyed or services are rendered or an obligation is incurred or an antecedent debt is satisfied; or
(B) When the property or obligation is received in good faith to secure a present advance or antecedent debt in an amount not disproportionately small as compared to the value of the property or obligation obtained;
(9) “Foreign country” means any other jurisdiction not in any state;
(10) “Foreign guaranty association” means any entities similar to a guaranty association now in existence in or hereafter created by the legislature of any other state;
(11) “Formal delinquency proceeding” means any liquidation or rehabilitation proceeding;
(12) “General assets” means all property, real, personal or otherwise, not specifically mortgaged, pledged, deposited or otherwise encumbered for the security or benefit of specified persons or classes of persons. As to specifically encumbered property, “general assets” includes all the property or its proceeds in excess of the amount necessary to discharge the sum or sums secured thereby. Assets held in trust and on deposit for the security or benefit of all policyholders or all policyholders and creditors, in more than a single state, shall be treated as general assets;
(13) “Guaranty association” means the Tennessee insurance guaranty association created by chapter 12, part 1 of this title, the life and health insurance guaranty association created by chapter 12, part 2 of this title, and any other similar entity now or hereafter created by the general assembly of this state for the payment of claims of insolvent insurers;
(14) “Insolvency” or “insolvent” means:
(A) For an insurer issuing only assessable fire insurance policies:
(i) The inability to pay any obligation within thirty (30) days after it becomes payable; or
(ii) If an assessment is made within thirty (30) days after the date, the inability to pay the obligation thirty (30) days following the date specified in the first assessment notice issued after the date of loss pursuant to § 56-20-106;
(B) For any other insurer, that it is unable to pay its obligations when they are due, or when its admitted assets do not exceed its liabilities, plus the greater of:
(i) Any capital and surplus required by law for its organization; or
(ii) The total par or stated value of its authorized and issued capital stock;
(C) As to any insurer licensed to do business in this state as of July 1, 1991, that does not meet the standard established under subdivision (14)(B), “insolvency” or “insolvent” means, for a period not to exceed three (3) years from July 1, 1991, that it is unable to pay its obligations when they are due or that its admitted assets do not exceed its liabilities, plus any required capital contribution ordered by the commissioner under the insurance law; and
(D) For purposes of this subdivision (14), “liabilities” include, but are not limited to, reserves required by statute or by department general regulations or specific requirements imposed by the commissioner upon a
subject company at the time of admission or subsequent thereto;

(15) "Insurer" means any person who has done, purports to do, is doing or is licensed to do an insurance business, and is or has been subject to the authority of, or to liquidation, rehabilitation, reorganization, supervision, or conservation by, any insurance commissioner. For purposes of this chapter, any other persons included under § 56-9-102 are deemed to be insurers;

(16) "Netting agreement" means:

(A) A contract or agreement, including terms and conditions incorporated by reference in it, including a master agreement, which master agreement, together with all schedules, confirmations, definitions, and addenda to it and transactions under any of them, shall be treated as one (1) netting agreement, that documents one (1) or more transactions between the parties to the agreement for or involving one (1) or more qualified financial contracts and that provides for the netting, liquidation, setoff, termination, acceleration, or close-out, under or in connection with one (1) or more qualified financial contracts or present or future payment or delivery obligations or payment or delivery entitlements under one (1) or more qualified financial contracts, including liquidation or close-out values relating to those obligations or entitlements, among the parties to the netting agreement;

(B) Any master agreement or bridge agreement for one (1) or more master agreements described in subdivision (16)(A); or

(C) Any security agreement or arrangement or other credit enhancement or guarantee or reimbursement obligation related to any contract or agreement described in subdivision (16)(A) or (16)(B); provided, that any contract or agreement described in subdivision (16)(A) or (16)(B) relating to agreements or transactions that are not qualified financial contracts shall be deemed to be a netting agreement only with respect to those agreements or transactions that are qualified financial contracts;

(17) "Preferred claim" means any claim with respect to which the terms of this chapter accord priority of payment from the general assets of the insurer;

(18)(A) "Qualified financial contract" means any commodity contract, forward contract, repurchase agreement, securities contract, swap agreement, and any similar agreement that the commissioner determines to be a qualified financial contract for the purposes of this chapter; provided, that the insurer entered into such contract or agreement in accordance with:

(i) Section 56-3-303(a)(21); and

(ii) The insurer’s derivative instruments use plan that has been approved by the commissioner pursuant to § 56-3-303(a)(21);

(B) As used in subdivision (18)(A), “commodity contract” means:

(i) A contract for the purchase or sale of a commodity for future delivery on, or subject to the rules of, a board of trade or contract market under the Commodity Exchange Act (7 U.S.C. § 1 et seq.), or a board of trade outside the United States;

(ii) An agreement that is subject to regulation under § 23 of the Commodity Exchange Act (7 U.S.C. § 23), as amended from time to time, and that is commonly known to the commodities trade as a margin account, margin contract, leverage account, or leverage contract;
(iii) An agreement or transaction that is subject to regulation under § 6c(b) of the Commodity Exchange Act (7 U.S.C. § 6c(b)), as amended from time to time, and that is commonly known to the commodities trade as a commodity option;

(iv) Any combination of the agreements or transactions referred to in this subdivision (18)(B); or

(v) Any option to enter into an agreement or transaction referred to in this subdivision (18)(B);

(C) As used in subdivision (18)(A), “forward contract,” “repurchase agreement,” “securities contract,” and “swap agreement” have the meanings set forth in the Federal Deposit Insurance Act (12 U.S.C. § 1821(e)(8)(D)), as amended from time to time;

(19) “Receiver” means receiver, liquidator, rehabilitator or conservator as the context requires;

(20) “Reciprocal state” means any state other than this state in which in substance and effect §§ 56-9-307(a), 56-9-404, 56-9-405 and 56-9-407 — 56-9-409 are in force, and in which provisions are in force requiring that the commissioner or equivalent official be the receiver of a delinquent insurer, and in which some provision exists for the avoidance of fraudulent conveyances and preferential transfers;

(21)(A) “Secured claim” means any claim secured by mortgage, trust deed, pledge as security, escrow, or otherwise, but not including special deposit claims or claims against general assets.

(B) “Secured claim” also includes claims that have become liens upon specific assets by reason of judicial process;

(22) “Special deposit claim” means any claim secured by a deposit made pursuant to statute for the security or benefit of a limited class or classes of persons, but not including any claim secured by general assets;

(23) “State” means any state, district or territory of the United States and the Panama Canal Zone; and

(24) “Transfer” includes the sale and every other and different mode, direct or indirect, of disposing of or of parting with property or with an interest therein, or with the possession thereof or of fixing a lien upon property or upon an interest therein, absolutely or conditionally, voluntarily, by or without judicial proceedings. The retention of a security title to property delivered to a debtor shall be deemed a transfer suffered by the debtor.


(a) Any receiver appointed in a proceeding under this chapter may at any time apply for, and any court of general jurisdiction may grant, the restraining orders, preliminary and permanent injunctions, and other orders as may be deemed necessary and proper to prevent:

(1) The transaction of further business;

(2) The transfer of property;

(3) Interference with the receiver or with a proceeding under this chapter;

(4) Waste of the insurer’s assets;

(5) Dissipation and transfer of bank accounts;

(6) The institution or further prosecution of any actions or proceedings;
(7) The obtaining of preferences, judgments, attachments, garnishments or liens against the insurer, its assets or its policyholders;
(8) The levying of execution against the insurer, its assets or its policyholders;
(9) The making of any sale or deed for nonpayment of taxes or assessments that would lessen the value of the assets of the insurer;
(10) The withholding from the receiver of books, accounts, documents or other records relating to the business of the insurer; or
(11) Any other threatened or contemplated action that might lessen the value of the insurer's assets or prejudice the rights of policyholders, creditors or shareholders, or the administration of any proceeding under this chapter.

(b) The receiver may apply to any court outside of this state for the relief described in subsection (a).

(c) Notwithstanding subsections (a) and (b) and any other provision of this title, a federal home loan bank shall not be stayed, enjoined, or prohibited from exercising or enforcing any right or cause of action regarding collateral pledged under a security agreement or under any pledge agreement, security agreement, collateral agreement, or other similar arrangement or credit enhancement relating to a security agreement to which the federal home loan bank is a party.


(a) Any court in this state before which any action or proceeding in which the insurer is a party, or is obligated to defend a party, is pending when a rehabilitation order against the insurer is entered shall stay the action or proceeding for ninety (90) days and any additional time as is necessary for the rehabilitator to obtain proper representation and prepare for further proceedings. The rehabilitator shall take such action respecting the pending litigation as the rehabilitator deems necessary in the interests of justice and for the protection of creditors, policyholders, and the public. The rehabilitator shall immediately consider all litigation pending outside this state and shall petition the courts having jurisdiction over that litigation for stays whenever necessary to protect the estate of the insurer.

(b) No statute of limitations or defense of laches shall run with respect to any action by or against an insurer between the filing of a petition for appointment of a rehabilitator for that insurer and the order granting or denying that petition. Any action against the insurer that might have been commenced when the petition was filed may be commenced for at least sixty (60) days after the order of rehabilitation is entered or the petition is denied. The rehabilitator may, upon an order for rehabilitation, within one (1) year or such other longer time as applicable law may permit, institute an action or proceeding on behalf of the insurer upon any cause of action against which the period of limitation fixed by applicable law has not expired at the time of the filing of the petition upon which the order is entered.

(c) Any guaranty association or foreign guaranty association covering life or health insurance or annuities has standing to appear in any court proceeding concerning the rehabilitation of a life or health insurer if the association is or may become liable under this chapter as a result of the rehabilitation.

(d) Notwithstanding subsections (a) and (b) and any other provision of this
title, a federal home loan bank shall not be stayed, enjoined, or prohibited from exercising or enforcing any right or cause of action regarding collateral pledged under a security agreement or under any pledge agreement, security agreement, collateral agreement, or other similar arrangement or credit enhancement relating to a security agreement to which the federal home loan bank is a party.


(a) The liquidator has the power to:

(1) Appoint a special deputy or deputies to act for the liquidator under this chapter, and determine the deputy’s reasonable compensation. The special deputy has powers of the liquidator granted by this section. The special deputy shall serve at the pleasure of the liquidator;

(2) Employ employees and agents, legal counsel, actuaries, accountants, appraisers, consultants and other personnel the liquidator may deem necessary to assist in the liquidation;

(3) Appoint, with the approval of the court, an advisory committee of policyholders, claimants or other creditors, including guaranty associations, should such a committee be deemed necessary. The committee shall serve at the pleasure of the commissioner and shall serve without compensation other than reimbursement for reasonable travel and per diem living expenses. No other committee of any nature shall be appointed by the commissioner or the court in liquidation proceedings conducted under this chapter;

(4) Fix the reasonable compensation of employees and agents, legal counsel, actuaries, accountants, appraisers and consultants with the approval of the court;

(5) Pay reasonable compensation to persons appointed and defray from the funds or assets of the insurer all expenses of taking possession of, conserving, conducting, liquidating, disposing of, or otherwise dealing with the business and property of the insurer. In the event that the property of the insurer does not contain sufficient cash or liquid assets to defray the costs incurred, the commissioner may advance the costs so incurred out of any appropriation for the maintenance of the department. Any amounts so advanced for expenses of administration shall be repaid to the commissioner for the use of the department out of the first available moneys of the insurer;

(6) Hold hearings, subpoena witnesses to compel their attendance, administer oaths, examine any person under oath, and compel any person to subscribe to the person’s testimony after it has been correctly reduced to writing, and, in connection therewith, require the production of any books, papers, records or other documents that the liquidator deems relevant to the inquiry;

(7) Audit the books and records of all agents of the insurer insofar as those records relate to the business activities of the insurer;

(8) Collect all debts and moneys due and claims belonging to the insurer, wherever located, and for this purpose to:

(A) Institute timely action in other jurisdictions, in order to forestall garnishment and attachment proceedings against the debts;

(B) Do such other acts as are necessary or expedient to collect, conserve or protect its assets or property, including the power to sell, compound, compromise or assign debts for purposes of collection upon the terms and
conditions as the liquidator deems best; and

(C) Pursue any creditor's remedies available to enforce the liquidator's claims;

(9) Conduct public and private sales of the property of the insurer;

(10) Use assets of the estate of an insurer under a liquidation order to transfer policy obligations to a solvent assuming insurer, if the transfer can be arranged without prejudice to applicable priorities under § 56-9-330;

(11) Acquire, hypothecate, encumber, lease, improve, sell, transfer, abandon or otherwise dispose of or deal with any property of the insurer at its market value or upon the terms and conditions as are fair and reasonable. The liquidator also has the power to execute, acknowledge and deliver any and all deeds, assignments, releases and other instruments necessary or proper to effectuate any sale of property or other transaction in connection with the liquidation;

(12) Borrow money on the security of the insurer's assets or without security and execute and deliver all documents necessary to that transaction for the purpose of facilitating the liquidation. Any such funds borrowed may be repaid as an administrative expense and have priority over any other claims in Class 1 under the priority of distribution;

(13) Enter into any contracts necessary to carry out the order to liquidate, and affirm or disavow any contracts to which the insurer is a party. However, the liquidator shall not disavow, reject, or repudiate a federal home loan bank security agreement or any pledge agreement, security agreement, collateral agreement, guarantee agreement, or other similar arrangement or credit enhancement relating to a security agreement to which a federal home loan bank is a party;

(14) Continue to prosecute and institute in the name of the insurer, or in the liquidator's own name, any and all suits and other legal proceedings, in this state or elsewhere, and abandon the prosecution of claims the liquidator deems unprofitable to pursue further. If the insurer is dissolved under § 56-9-309, the liquidator shall have the power to apply to any court in this state or elsewhere for leave to substitute the liquidator for the insurer as plaintiff;

(15) Prosecute any action that may exist in behalf of the creditors, members, policyholders or shareholders of the insurer against any officer of the insurer, or any other person;

(16) Remove any or all records and property of the insurer to the offices of the commissioner or to any other place that may be convenient for the purposes of efficient and orderly execution of the liquidation. Guaranty associations and foreign guaranty associations shall have such reasonable access to the records of the insurer as is necessary for them to carry out their statutory obligations;

(17) Deposit in one (1) or more banks in this state the sums required for meeting current administration expenses and dividend distributions;

(18) Invest all sums not currently needed, unless the court orders otherwise;

(19) File any necessary documents for record in the office of any recorder of deeds or record office in this state or elsewhere where property of the insurer is located;

(20) Assert all defenses available to the insurer as against third persons, including statutes of limitation, statutes of frauds, and the defense of usury.
A waiver of any defense by the insurer after a petition in liquidation has been filed shall not bind the liquidator. Whenever a guaranty association or foreign guaranty association has an obligation to defend any suit, the liquidator shall give precedence to the obligation and may defend only in the absence of a defense by the guaranty associations;

(21) Exercise and enforce all the rights, remedies and powers of any creditor, shareholder, policyholder or member, including any power to avoid any transfer or lien that may be given by the general law and that is not included under §§ 56-9-315 — 56-9-317;

(22) Intervene in any proceeding wherever instituted that might lead to the appointment of a receiver or trustee, and act as the receiver or trustee whenever the appointment is offered;

(23) Enter into agreements with any receiver or commissioner of any other state relating to the rehabilitation, liquidation, conservation or dissolution of an insurer doing business in both states; and

(24) Exercise all powers now held or hereafter conferred upon receivers by the laws of this state not inconsistent with this chapter.

(b) The enumeration in this section of the powers and authority of the liquidator shall not be construed as a limitation upon the liquidator, nor shall it exclude in any manner the liquidator’s right to do other acts not herein specifically enumerated or otherwise provided for, that may be necessary or appropriate for the accomplishment of or in aid of the purpose of liquidation.

(c) Notwithstanding the powers of the liquidator as stated in subsections (a) and (b), the liquidator has no obligation to defend claims or to continue to defend claims subsequent to the entry of a liquidation order.

56-9-315. Fraudulent transfers — Effect — When transfer made.

(a)(1) Every transfer made or suffered and every obligation incurred by an insurer within one (1) year prior to the filing of a successful petition for rehabilitation or liquidation under this chapter is fraudulent as to then existing and future creditors, if made or incurred without fair consideration, or with actual intent to hinder, delay or defraud either existing or future creditors.

(2) A transfer made or an obligation incurred by an insurer ordered to be rehabilitated or liquidated under this chapter, which is fraudulent under this section, may be voided by the receiver, except as to a person who in good faith is a purchaser, lienor or obligee for a present fair equivalent value, and except that any purchaser, lienor or obligee, who in good faith has given a consideration less than fair for the transfer, lien or obligation, may retain the property, lien or obligation as security for repayment.

(3) The court may, on due notice, order any such transfer or obligation to be preserved for the benefit of the estate, and, in that event, the receiver shall succeed to and may enforce the rights of the purchaser, lienor or obligee.

(b)(1) A transfer of property other than real property shall be deemed to be made or suffered when it becomes so far perfected that no subsequent lien obtainable by legal or equitable proceedings on a simple contract could become superior to the rights of the transferee under § 56-9-317(c).

(2) A transfer of real property shall be deemed to be made or suffered when it becomes so far perfected that no subsequent bona fide purchaser
from the insurer could obtain rights superior to the rights of the transferee.

(3) A transfer that creates an equitable lien shall not be deemed to be perfected if there are available means by which a legal lien could be created.

(4) Any transfer not perfected prior to the filing of a petition for liquidation shall be deemed to be made immediately before the filing of the successful petition.

(5) This subsection (b) shall apply whether or not there are or were creditors who might have obtained any liens or persons who might have become bona fide purchasers.

(c) Any transaction of the insurer with a reinsurer shall be deemed fraudulent and may be avoided by the receiver under subsection (a) if:

(1) The transaction consists of the termination, adjustment or settlement of a reinsurance contract in which the reinsurer is released from any part of its duty to pay the originally specified share of losses that had occurred prior to the time of the transactions, unless the reinsurer gives a present fair equivalent value for the release; and

(2) Any part of the transaction took place within one (1) year prior to the date of filing of the petition through which the receivership was commenced.

(d) Every person receiving any property from the insurer or any benefit thereof which is a fraudulent transfer under subsection (a) shall be personally liable therefor and shall be bound to account to the liquidator.

(e) Notwithstanding this section and any other provision of this title, a receiver shall not avoid any transfer of, or any obligation to transfer, money or any other property arising under or in connection with a federal home loan bank security agreement or any pledge agreement, security agreement, collateral agreement, guarantee agreement, or other similar arrangement or credit enhancement relating to a security agreement to which a federal home loan bank is a party. However, a transfer may be avoided under this section if it was made with the actual intent to hinder, delay, or defraud either existing or future creditors.

56-9-317. Preferences — Definition — Avoidance by liquidator — When transfer is made or perfected — Liens — Jurisdiction of chancery court — Preferences in favor of attorneys or insiders of insurer — Federal home loan bank.

(a)(1) A preference is a transfer of any of the property of an insurer to or for the benefit of a creditor, for or on account of an antecedent debt, made or suffered by the insurer within one (1) year before the filing of a successful petition for liquidation under this chapter, the effect of which transfer may be to enable the creditor to obtain a greater percentage of this debt than another creditor of the same class would receive. If a liquidation order is entered while the insurer is already subject to a rehabilitation order, then the transfers shall be deemed preferences if made or suffered within one (1) year before the filing of the successful petition for rehabilitation, or within two (2) years before the filing of the successful petition for liquidation, whichever time is shorter.

(2) Any preference may be avoided by the liquidator if:

(A) The insurer was insolvent at the time of the transfer;

(B) The transfer was made within four (4) months before the filing of the petition;
(C) The creditor receiving it or to be benefited thereby or the creditor's agent acting with reference thereto had, at the time when the transfer was made, reasonable cause to believe that the insurer was insolvent or was about to become insolvent; or

(D) The creditor receiving it was an officer, or any employee or attorney or other person who was in fact in a position of comparable influence in the insurer to an officer, whether or not the person held the position, or any shareholder holding directly or indirectly more than five percent (5%) of any class of any equity security issued by the insurer, or any other person, firm, corporation, association or aggregation of persons with whom the insurer did not deal at arm's length.

(3) Where the preference is voidable, the liquidator may recover the property or, if it has been converted, its value from any person who has received or converted the property, except where a bona fide purchaser or lienor has given less than fair equivalent value, the purchaser or lienor shall have a lien upon the property to the extent of the consideration actually given by the purchaser or lienor. Where a preference by way of lien or security title is voidable, the court may on due notice order the lien or title to be preserved for the benefit of the estate, in which event the lien or title shall pass to the liquidator.

(b)(1) A transfer of property other than real property shall be deemed to be made or suffered when it becomes so far perfected that no subsequent lien obtainable by legal or equitable proceedings on a simple contract could become superior to the rights of the transferee.

(2) A transfer of real property shall be deemed to be made or suffered when it becomes so far perfected that no subsequent bona fide purchaser from the insurer could obtain rights superior to the rights of the transferee.

(3) A transfer that creates an equitable lien shall not be deemed to be perfected if there are available means by which a legal lien could be created.

(4) A transfer not perfected prior to the filing of a petition for liquidation shall be deemed to be made immediately before the filing of the successful petition.

(5) This subsection (b) shall apply whether or not there are or were creditors who might have obtained liens or persons who might have become bona fide purchasers.

(c)(1) A lien obtainable by legal or equitable proceedings upon a simple contract is one arising in the ordinary course of the proceedings upon the entry or docketing of a judgment or decree, or upon attachment, garnishment, execution, or like process, whether before, upon, or after judgment or decree and whether before or upon levy. It does not include liens which under applicable law are given a special priority over other liens that are prior in time.

(2) A lien obtainable by legal or equitable proceedings could become superior to the rights of a transferee, or a purchaser could obtain rights superior to the rights of a transferee within the meaning of subsection (b), if the consequences would follow only from the lien or purchase itself, or from the lien or purchase followed by any step wholly within the control of the respective lienholder or purchaser, with or without the aid of ministerial action by public officials. Such a lien could not, however, become superior and such a purchase could not create superior rights for the purpose of subsection (b) through any acts subsequent to the obtaining of such a lien or subsequent to such a purchase that require the agreement or concurrence of
any third party or that require any further judicial action or ruling.

(d) A transfer of property for or on account of a new and contemporaneous consideration, which is deemed under subsection (b) to be made or suffered after the transfer because of delay in perfecting it, does not thereby become a transfer for or on account of an antecedent debt if any acts required by the applicable law to be performed in order to perfect the transfer as against liens or bona fide purchasers' rights are performed within twenty-one (21) days or any period expressly allowed by the law, whichever is less. A transfer to secure a future loan, if such a loan is actually made, or a transfer that becomes security for a future loan, shall have the same effect as a transfer for or on account of a new and contemporaneous consideration.

(e) If any lien deemed voidable under subdivision (a)(2) has been dissolved by the furnishing of a bond or other obligation, the surety on which has been indemnified directly or indirectly by the transfer of, or the creation of, a lien upon any property of an insurer before the filing of a petition under this chapter that results in a liquidation order, the indemnifying transfer or lien shall also be deemed voidable.

(f) The property affected by any lien deemed voidable under subsections (a) and (e) shall be discharged from the lien, and that property and any of the indemnifying property transferred to or for the benefit of a surety shall pass to the liquidator, except that the court may, on due notice, order any such lien to be preserved for the benefit of the estate, and the court may direct that the conveyance be executed as may be proper or adequate to evidence the title of the liquidator.

(g) The chancery court of Davidson County has summary jurisdiction of any proceeding by the liquidator to hear and determine the rights of any parties under this section. Reasonable notice of any hearing in the proceeding shall be given to all parties in interest, including the obligee of a releasing bond or other like obligation. Where an order is entered for the recovery of indemnifying property in kind or for the avoidance of an indemnifying lien, the court, upon application of any party in interest, shall in the same proceeding ascertain the value of the property or lien, and if the value is less than the amount for which the property is indemnified or than the amount of the lien, the transferee or lienholder may elect to retain the property or lien upon payment of its value, as ascertained by the court, to the liquidator, within reasonable times as the court shall fix.

(h) The liability of the surety under a releasing bond or other like obligation is discharged to the extent of the value of the indemnifying property recovered or the indemnifying lien nullified and avoided by the liquidator, or, where the property is retained under subsection (g), to the extent of the amount paid to the liquidator.

(i) If a creditor has been preferred, and afterward in good faith gives the insurer further credit without security of any kind, for property that becomes a part of the insurer's estate, the amount of the new credit remaining unpaid at the time of the petition may be set off against the preference that would otherwise be recoverable from the creditor.

(j) If an insurer, directly or indirectly, within four (4) months before the filing of a successful petition for liquidation under this chapter, or at any time in contemplation of a proceeding to liquidate it, pays money or transfers property to an attorney for services rendered or to be rendered, the transactions may be examined by the court on its own motion or shall be examined by
the court on petition of the liquidator and shall be held valid only to the extent of a reasonable amount to be determined by the court, and the excess may be recovered by the liquidator for the benefits of the estate; provided, that where the attorney is in a position of influence in the insurer or an affiliate thereof, payment of any money or the transfer of any property to the attorney for services rendered or to be rendered shall be governed by subdivision (a)(2)(D).

(k)(1) Every officer, manager, employee, shareholder, member, subscriber, attorney or any other person acting on behalf of the insurer who knowingly participates in giving any preference, when the person has reasonable cause to believe the insurer is, or is about to become, insolvent at the time of the preference, is personally liable to the liquidator for the amount of the preference. It is permissible to infer that there is a reasonable cause to so believe if the transfer was made within four (4) months before the date of filing of the successful petition for liquidation.

(2) Every person receiving any property from the insurer or the benefit of the property as a preference voidable under subsection (a) is personally liable therefor and is bound to account to the liquidator.

(3) Nothing in this subsection (k) shall prejudice any other claim by the liquidator against any person.

(l) Notwithstanding subdivision (a)(2) and any other provision of this title, a liquidator or rehabilitator shall not avoid any preference arising under or in connection with a federal home loan bank security agreement or any pledge agreement, security agreement, collateral agreement, guarantee agreement, or other similar arrangement or credit enhancement relating to a security agreement to which a federal home loan bank is a party.

56-9-339. Federal home loan bank’s secured claim on insurer subject to delinquency proceeding.

(a) Notwithstanding any other provision of this title, any secured claim that a federal home loan bank has on an insurer who is subject to a delinquency proceeding under this chapter is governed exclusively by this section.

(b) Notwithstanding any other provision of this title, a receiver shall not void a redemption or repurchase of any stock or equity securities made by a federal home loan bank within four (4) months of the commencement of the delinquency proceedings or that received prior approval of the receiver. However, a transfer is voidable if the transfer is made with the actual intent to hinder, delay, or defraud the insurer member, the receiver for the insurer member, existing creditors, or future creditors.

(c) If a federal home loan bank exercises its rights regarding collateral pledged by an insurer member who is subject to a delinquency proceeding, then the federal home loan bank shall repurchase any capital stock that is in excess of the amount of federal home loan bank stock that the insurer member is required to hold as a minimum investment, to the extent the federal home loan bank in good faith determines the repurchase to be permissible under applicable laws, regulations, regulatory obligations, and the federal home loan bank’s capital plan, and consistent with the federal home loan bank’s current capital stock practices applicable to its entire membership.

(d) Following the appointment of a receiver for an insurer member, the federal home loan bank, within ten (10) business days after a request made by the receiver, shall provide a process and establish timelines for the:
(1) Release of collateral that exceeds the lendable collateral value, as determined pursuant to the advance agreement with the federal home loan bank, required to support secured obligations remaining after any repayment of advances;

(2) Release of any of the insurer member’s collateral remaining in the federal home loan bank’s possession following repayment in full of all outstanding secured obligations of the insurer member;

(3) Payment of fees owed by the insurer member and the operation of deposits and other accounts of the insurer member with the federal home loan bank; and

(4) Possible redemption or repurchase of federal home loan bank stock or excess stock of any class that an insurer member is required to own.

(e) Upon request from the receiver for an insurer member, the federal home loan bank shall provide any available options that an insurer member may exercise to renew or restructure an advance to defer associated prepayment fees, subject to the following:

(1) Market conditions;

(2) The terms of the advances outstanding to the insurer member;

(3) The applicable policies of the federal home loan bank; and


(f) After the tenth day following the commencement of a delinquency proceeding in this state involving an insurer member of the federal home loan bank, the federal home loan bank must not be stayed or prohibited from exercising its rights regarding collateral pledged by that insurer member.

56-12-202. Purpose.

(a) The purpose of this part is to protect, subject to certain limitations, the persons listed in § 56-12-204(a) against failure in the performance of contractual obligations, under life, health, and annuity policies, plans, or contracts specified in § 56-12-204(b), because of the impairment or insolvency of the member insurer that issued the policies, plans, or contracts.

(b) To provide this protection, an association of member insurers is hereby created to pay benefits and to continue coverages as limited in this part.

(c) Members of the association are subject to assessment to provide funds to carry out the purpose of this part, and shall provide such services as are necessary to implement the protections accorded to policyholders by this part.

56-12-203. Part definitions.

As used in this part:

(1) “Account” means any of the accounts created under § 56-12-205;

(2) “Association” means the Tennessee life and health insurance guaranty association created under § 56-12-205;

(3) “Commissioner” means the commissioner of commerce and insurance;

(4) “Contractual obligation” means an obligation under a policy or contract or certificate under a group policy or contract, or a portion thereof, for which coverage is provided under § 56-12-204;

(5) “Covered contract” or “covered policy” means a contract or policy, or a portion of a contract or policy, for which coverage is provided under § 56-12-204;
(6) “Extra-contractual claims” includes, for example, claims relating to bad faith in the payment of claims, punitive or exemplary damages, or attorneys’ fees and costs;

(7) “Health benefit plan” means any hospital or medical expense policy or certificate, or health maintenance organization subscriber contract or any other similar health contract. The term does not include accident only insurance, credit insurance, dental only insurance, vision only insurance, Medicare supplement insurance, disability income insurance, coverage for on-site medical clinics, benefits for long-term care, home health care, community-based care or any combination thereof, specified disease, hospital confinement indemnity, or limited benefit health insurance if the types of coverage do not provide coordination of benefits and are provided under separate policies or certificates, or other limited benefit or supplemental health insurance excluded from the definition of health insurance in § 56-1-105;

(8) “Impaired insurer” means a member insurer which, after July 1, 1989, is not an insolvent insurer, and is placed under an order of rehabilitation or conservation by a court of competent jurisdiction;

(9) “Insolvent insurer” means a member insurer which, after July 1, 1989, is placed under an order of liquidation by a court of competent jurisdiction with a finding of insolvency;

(10) “Insurance” means life, annuity, and health benefits provided under a contract issued by a member insurer;

(11) “Long-term care insurance” has the same meaning as set forth in § 56-42-103(5);

(12) “Member insurer” means an insurer, health maintenance organization, or nonprofit hospital and medical service organization licensed or that holds a certificate of authority to transact in this state any kind of insurance or health maintenance organization business for which coverage is provided under § 56-12-204, and includes an insurer or health maintenance organization whose license or certificate of authority in this state may have been suspended, revoked, not renewed, or voluntarily withdrawn, but does not include:

(A) A fraternal benefit society;

(B) A mandatory state pooling plan;

(C) A mutual assessment company or other person that operates on an assessment basis;

(D) An insurance exchange;

(E) An organization that is authorized under the law of this state to issue charitable gift annuities; or

(F) An entity similar to any of the above;

(13) “Moody’s Corporate Bond Yield Average” means the Monthly Average Corporates as published by Moody’s Investors Service, Inc., or any successor thereto;

(14) “Owner” of a policy or contract and “policyholder,” “policy owner,” and “contract owner” mean the person who is identified as the legal owner under the terms of the policy or contract or who is otherwise vested with legal title to the policy or contract through a valid assignment completed in accordance with the terms of the policy or contract and properly recorded as the owner on the books of the member insurer. “Owner”, “policyholder”, “policy owner”, and “contract owner” does not include persons with a mere beneficial
interest in a policy or contract;

(15) “Person” means an individual, corporation, limited liability company, partnership, association, governmental body or entity, or voluntary organization;

(16) “Premiums” means amounts or considerations, by whatever name called, received on covered policies or contracts less returned premiums, considerations, and deposits and less dividends and experience credits. “Premiums” does not include amounts or considerations received for policies or contracts, or for the portions of policies or contracts for which coverage is not provided under § 56-12-204(b), except that assessable premium must not be reduced on account of § 56-12-204(b)(2)(C) relating to interest limitations or § 56-12-204(c)(2) relating to limitations with respect to one (1) individual, one (1) participant, and one (1) policy or contract owner. “Premiums” does not include:

(A) Premiums on an unallocated annuity contract; or

(B) With respect to multiple non-group policies of life insurance owned by one (1) owner, whether the policy or contract owner is an individual, firm, corporation, or other person, and whether the persons insured are officers, managers, employees, or other persons, premiums in excess of five million dollars ($5,000,000) with respect to these policies or contracts, regardless of the number of policies or contracts held by the owner;

(17) “Principal place of business” of a person, other than a natural person, means the single state in which the natural person who establishes a policy for the direction, control, and coordination of the operations of the entity as a whole, primarily exercises that function as determined by the association in its reasonable judgment by considering the following factors:

(A) The state in which the primary executive and administrative headquarters of the entity is located;

(B) The state in which the principal office of the chief executive officer of the entity is located;

(C) The state in which the board of directors or similar governing person or persons of the entity conducts the majority of its meetings;

(D) The state in which the executive or management committee of the board of directors or similar governing person or persons of the entity conducts the majority of its meetings; and

(E) The state from which the management of the overall operations of the entity is directed;

(18) “Receivership court” means the court in the insolvent or impaired insurer’s state having jurisdiction over the conservation, rehabilitation, or liquidation of the member insurer;

(19) “Resident” means a person to whom a contractual obligation is owed and who resides in this state on the date of entry of a court order that determines a member insurer to be an impaired insurer or a court order that determines a member insurer to be an insolvent insurer. A person may be a resident of only one (1) state, which, in the case of a person other than a natural person, is its principal place of business. Citizens of the United States who are either residents of foreign countries or residents of United States possessions, territories, or protectorates that do not have an association similar to the association created by this part are deemed residents of the state of domicile of the member insurer that issued the policies or contracts;
(20) “State” means a state, the District of Columbia, Puerto Rico, and a United States possession, territory, or protectorate;

(21) “Structured settlement annuity” means an annuity purchased in order to fund periodic payments for a plaintiff or other claimant in payment for, or with respect to, personal injury suffered by the plaintiff or other claimant;

(22) “Supplemental contract” means a written agreement entered into for the distribution of proceeds under a life, health, or annuity policy or contract; and

(23) “Unallocated annuity contract” means an annuity contract or group annuity certificate which is not issued to and owned by an individual, except to the extent of any annuity benefits guaranteed to an individual by an insurer under the contract or certificate.

56-12-204. Applicability — Limitations on liability.

(a)(1) This part provides coverage for the policies and contracts specified in subsection (b):

(A) To persons who, regardless of where they reside except for nonresident certificate holders under group policies or contracts, are the beneficiaries, assignees, or payees, including healthcare providers rendering services covered under health insurance policies or certificates, of persons covered under subdivision (a)(1)(B); and

(B) To persons who are owners of or certificate holders or enrollees under the policies or contracts, other than structured settlement annuities, and who:

(i) Are residents; or

(ii) Are not residents, but only under all of the following conditions:

(a) The member insurer that issued the policies or contracts is domiciled in this state;

(b) The states in which the persons reside have associations similar to the association created by this part; and

(c) The persons are not eligible for coverage by an association in any other state due to the fact that the insurer or the health maintenance organization was not licensed in the state at the time specified in the state’s guaranty association law.

(2) For structured settlement annuities specified in subsection (b), subdivisions (a)(1)(A) and (a)(1)(B) do not apply, and this part, except as provided in subdivisions (a)(3) and (a)(4), provides coverage to a person who is a payee under a structured settlement annuity, or beneficiary of a payee if the payee is deceased, if the payee:

(A) Is a resident, regardless of where the contract owner resides; or

(B) Is not a resident, but only under both of the following conditions:

(i) The contract owner of the structured settlement annuity is a resident; or

(ii) Neither the payee, the beneficiary, nor the contract owner is eligible for coverage by the association of the state in which the payee or
(3) This part does not provide coverage to the following:

(A) A person who is a payee or the beneficiary of a contract owner resident of this state if the payee or beneficiary is afforded any coverage by the association of another state; or

(B) A person who acquires rights to receive payments through a structured settlement factoring transaction as defined in 26 U.S.C. § 5891(c)(3)(A), regardless of whether the transaction occurred before or after that section took effect.

(4) This part provides coverage to a person who is a resident of this state and, in special circumstances, to a nonresident. In order to avoid duplicate coverage, if a person who would otherwise receive coverage under this part is provided coverage under the laws of any other state, the person is not provided coverage under this part. In determining the application of this subdivision (a)(4) in situations where a person could be covered by the association of more than one (1) state, whether as an owner, payee, enrollee, beneficiary, or assignee, this part must be construed in conjunction with other state laws to result in coverage by only one (1) association.

(b)(1) This part provides coverage to the persons specified in subsection (a) for policies or contracts of direct, non-group life insurance, accident and health insurance, which, for purposes of this part, includes health maintenance organization subscriber contracts and certificates, or annuities, for certificates under direct group policies and contracts, and for supplemental contracts to any of these, in each case issued by member insurers, except as limited by this part. Annuity contracts and certificates under group annuity contracts include allocated funding agreements, structured settlement annuities, and any immediate or deferred annuity contracts.

(2) Except as otherwise provided in subdivision (b)(3), this part does not provide coverage for:

(A) A portion of a policy or contract not guaranteed by the member insurer, or under which the risk is borne by the policy or contract owner;

(B) A policy or contract of reinsurance, unless assumption certificates have been issued pursuant to the reinsurance policy or contract;

(C) A portion of a policy or contract to the extent that the rate of interest on which it is based, or the interest rate, crediting rate, or similar factor determined by use of an index or other external reference stated in the policy or contract employed in calculating returns or changes in value:

(i) Averaged over the period of four (4) years prior to the date on which the member insurer becomes an impaired or insolvent insurer under this part, whichever is earlier, exceeds the rate of interest determined by subtracting two (2) percentage points from Moody’s Corporate Bond Yield Average averaged for that same four-year period or for such lesser period if the policy or contract was issued less than four (4) years before the member insurer becomes an impaired or insolvent insurer under this part, whichever is earlier; and

(ii) On and after the date on which the member insurer becomes an impaired or insolvent insurer under this part, whichever is earlier, exceeds the rate of interest determined by subtracting three (3) percentage points from Moody’s Corporate Bond Yield Average as most recently available;

(D) A portion of a policy or contract issued to a plan or program of an employer, association, or other person to provide life, health, or annuity
benefits to its employees, members, or others, to the extent that the plan or program is self-funded or uninsured, including, but not limited to, benefits payable by an employer, association, or other person under:

(i) A multiple employer welfare arrangement as defined in 29 U.S.C. § 1002(40);
(ii) A minimum premium group insurance plan;
(iii) A stop-loss group insurance plan; or
(iv) An administrative services only contract;
(E) A portion of a policy or contract to the extent that it provides for:
   (i) Dividends or experience rating credits;
   (ii) Voting rights; or
   (iii) Payment of any fees or allowances to any person, including the policy or contract owner, in connection with the service to or administration of the policy or contract;
(F) A policy or contract issued in this state by a member insurer at a time when it was not licensed or did not have a certificate of authority to issue the policy or contract in this state;
(G) A portion of a policy or contract to the extent that the assessments required by § 56-12-208 with respect to the policy or contract are preempted by federal or state law;
(H) An obligation that does not arise under the express written terms of the policy or contract issued by the member insurer to the enrollee, certificate holder, contract owner, or policy owner, including without limitation:
   (i) Claims based on marketing materials;
   (ii) Claims based on side letters, riders, or other documents that were issued by the member insurer without meeting applicable policy or contract form filing or approval requirements;
   (iii) Misrepresentations of or regarding policy or contract benefits;
   (iv) Extra-contractual claims; or
   (v) A claim for penalties or consequential or incidental damages;
(I) A contractual agreement that establishes the member insurer’s obligations to provide a book value accounting guaranty for defined contribution benefit plan participants by reference to a portfolio of assets that is owned by the benefit plan or its trustee, which in each case is not an affiliate of the member insurer;
(J) An unallocated annuity contract;
(K) A portion of a policy or contract to the extent it provides for interest or other changes in value to be determined by the use of an index or other external reference stated in the policy or contract, but which have not been credited to the policy or contract, or as to which the policy or contract owner's rights are subject to forfeiture, as of the date the member insurer becomes an impaired or insolvent insurer under this part, whichever is earlier. If a policy’s or contract’s interest or changes in value are credited less frequently than annually, then for purposes of determining the values that have been credited and are not subject to forfeiture under this subdivision (b)(2)(K), the interest or change in value determined by using the procedures defined in the policy or contract will be credited as if the contractual date of crediting interest or changing values was the date of impairment or insolvency, whichever is earlier, and will not be subject to forfeiture;
(L) A policy or contract providing any hospital, medical, prescription drug, or other healthcare benefits pursuant to part C or part D of Subchapter XVIII, Chapter 7 of Title 42 of the United States Code, commonly known as Medicare part C and D, or Subchapter XIX, Chapter 7 of Title 42 of the United States Code, commonly known as Medicaid, or any regulations issued pursuant thereto; or

(M) Structured settlement annuity benefits to which a payee, or beneficiary, has transferred his or her rights in a structured settlement factoring transaction as defined in 26 U.S.C. § 5891(c)(3)(A), regardless of whether the transaction occurred before or after that section became effective.

(3) The exclusion from coverage in subdivision (b)(2)(C) does not apply to any portion of a policy or contract, including a rider, that provides long-term care or any other health insurance benefits.

(c) The benefits that the association may become obligated to cover must in no event exceed the lesser of:

(1) The contractual obligations for which the member insurer is liable or would have been liable if it were not an impaired or insolvent insurer; or

(2)(A) With respect to one (1) life, regardless of the number of policies or contracts:

(i) Three hundred thousand dollars ($300,000) in life insurance death benefits, but not more than one hundred thousand dollars ($100,000) in net cash surrender and net cash withdrawal values for life insurance;

(ii) One hundred thousand dollars ($100,000) in health insurance benefits; provided, for policies or contracts issued by a member insurer that becomes insolvent after January 1, 2010, the limits for health insurance benefits are as follows:

(a) One hundred thousand dollars ($100,000) for coverages that are not disability income insurance, health benefit plans, or long-term care insurance, including any net cash surrender and net cash withdrawal values;

(b) Three hundred thousand dollars ($300,000) for disability income insurance and three hundred thousand dollars ($300,000) for long-term care insurance;

(c) Five hundred thousand dollars ($500,000) for health benefit plans; and

(iii) Two hundred fifty thousand dollars ($250,000) in the present value of annuity benefits, including net cash surrender and net cash withdrawal values; or

(B) With respect to each payee of a structured settlement annuity, or beneficiary or beneficiaries of the payee if deceased, two hundred fifty thousand dollars ($250,000) in present value annuity benefits, in the aggregate, including net cash surrender and net cash withdrawal values, if any;

(C) The association is not obligated to cover more than:

(i) An aggregate of three hundred thousand dollars ($300,000) in benefits with respect to any one (1) life under subdivisions (c)(2)(A) and (B) except with respect to benefits for health benefit plans under subdivision (c)(2)(A)(ii)(c), in which case the aggregate liability of the association must not exceed five hundred thousand dollars ($500,000) with respect to any one (1) individual; or
(ii) With respect to one (1) owner of multiple non-group policies of life insurance, whether the policy or contract owner is an individual, firm, corporation, or other person, and whether the persons insured are officers, managers, employees, or other persons, more than five million dollars ($5,000,000) in benefits, regardless of the number of policies and contracts held by the owner;

(D) The limitations set forth in this subsection (c) are limitations on the benefits for which the association is obligated before taking into account either its subrogation and assignment rights or the extent to which those benefits could be provided out of the assets of the impaired or insolvent insurer attributable to covered policies. The costs of the association's obligations under this part may be met by the use of assets attributable to covered policies or reimbursed to the association pursuant to its subrogation and assignment rights;

(E) For purposes of this part, benefits provided by a long-term care rider to a life insurance policy or annuity contract are considered the same type of benefits as the base life insurance policy or annuity contract to which it relates.

(d) In performing its obligations to provide coverage under § 56-12-207, the association is not required to guarantee, assume, reinsure, reissue, or perform, or cause to be guaranteed, assumed, reinsured, reissued, or performed, the contractual obligations of the insolvent or impaired insurer under a covered policy or contract that do not materially affect the economic values or economic benefits of the covered policy or contract.

56-12-205. Creation of association — Accounts.

(a) There is created a nonprofit legal entity to be known as the Tennessee life and health insurance guaranty association. All member insurers are and shall remain members of the association as a condition of their authority to transact insurance or a health maintenance organization business in this state. The association shall perform its function under the plan of operation established and approved pursuant to § 56-12-209, and shall exercise its powers through a board of directors established by § 56-12-206. For purposes of administration and assessment, the association shall maintain two (2) accounts:

1. The life insurance and annuity account, which includes the following subaccounts:
   (A) Life insurance account; and
   (B) Annuity account, excluding unallocated annuities; and
2. The health account.

(b) The association is under the immediate supervision of the commissioner and subject to the applicable provisions of the insurance laws of this state. Meetings or records of the association may be opened upon majority vote of the board of directors of the association.

56-12-207. Impaired or insolvent insurers.

(a) If a member insurer is an impaired insurer, the association may, in its discretion, and subject to any conditions imposed by the association that do not impair the contractual obligations of the impaired insurer and that are approved by the commissioner:
(1) Guarantee, assume, reissue, or reinsure, or cause to be guaranteed, assumed, reissued, or reinsured, any or all of the policies or contracts of the impaired insurer; and

(2) Provide monies, pledges, loans, notes, guarantees, or other means as are proper to effectuate subdivision (a)(1) and assure payment of the contractual obligations of the impaired insurer pending action under subdivision (a)(1).

(b) If a member insurer is an insolvent insurer, then the association shall, in its discretion, either:

(1)(A)(i) Guarantee, assume, reissue, or reinsure, or cause to be guaranteed, assumed, reissued, or reinsured, the policies or contracts of the insolvent insurer; or

(ii) Assure payment of the contractual obligations of the insolvent insurer; and

(B) Provide monies, pledges, loans, notes, guarantees, or other means reasonably necessary to discharge the association’s duties; or

(2) Provide benefits and coverage in accordance with the following provisions:

(A) With respect to policies and contracts, assure payment of benefits that would have been payable under the policies or contracts of the insolvent insurer for claims incurred:

(i) With respect to group policies and contracts, no later than the earlier of the next renewal date under those policies or contracts or forty-five (45) days, but in no event less than thirty (30) days, after the date on which the association becomes obligated with respect to the policies and contracts; and

(ii) With respect to non-group policies, contracts, and annuities no later than the earlier of the next renewal date, if any, under the policies or contracts or one (1) year, but in no event less than thirty (30) days, from the date on which the association becomes obligated with respect to the policies or contracts;

(B) Make diligent efforts to provide all known insureds, enrollees, or annuitants for non-group policies and contracts, or group policy or contract owners with respect to group policies and contracts, thirty-days’ notice of the termination pursuant to subdivision (b)(2)(A), of the benefits provided;

(C) With respect to non-group policies and contracts covered by the association, make available to each known insured, enrollee, or annuitant, or owner if other than the insured or annuitant, and with respect to an individual formerly an insured, enrollee, or annuitant under a group policy or contract who is not eligible for replacement group coverage, make available substitute coverage on an individual basis in accordance with subdivision (b)(2)(D), if the insureds, enrollees, or annuitants had a right under law or the terminated policy, contract, or annuity to convert coverage to individual coverage or to continue an individual policy, contract, or annuity in force until a specified age or for a specified time, during which the insurer or health maintenance organization had no right unilaterally to make changes in any provision of the policy, contract, or annuity or had a right only to make changes in premium by class;

(D)(i) In providing the substitute coverage required under subdivision (b)(2)(C), the association may offer either to reissue the terminated coverage or to issue an alternative policy or contract at actuarially
justified rates subject to the prior approval of the commissioner;

(ii) Alternative or reissued policies or contracts must be offered without requiring evidence of insurability, and must not provide for any waiting period or exclusion that would not have applied under the terminated policy or contract; and

(iii) The association may reinsure any alternative or reissued policy or contract;

(E)(i) Alternative policies or contracts adopted by the association are subject to the approval of the commissioner. The association may adopt alternative policies or contracts of various types for future issuance without regard to any particular impairment or insolvency;

(ii) Alternative policies or contracts must contain at least the minimum statutory provisions required in this state and provide benefits that are not unreasonable in relation to the premium charged. The association shall set the premium in accordance with a table of rates that it shall adopt. The premium must reflect the amount of insurance to be provided and the age and class of risk of each insured, but must not reflect any changes in the health of the insured after the original policy or contract was last underwritten; and

(iii) Any alternative policy or contract issued by the association must provide coverage of a type similar to that of the policy or contract issued by the impaired or insolvent insurer, as determined by the association;

(F) If the association elects to reissue terminated coverage at a premium rate different from that charged under the terminated policy or contract, the premium must be actuarially justified and set by the association in accordance with the amount of insurance or coverage provided and the age and class of risk, subject to prior approval of the commissioner;

(G) The association’s obligations with respect to coverage under any policy or contract of the impaired or insolvent insurer or under any reissued or alternative policy or contract ceases on the date the coverage or policy or contract is replaced by another similar policy or contract by the policy or contract owner, the insured, the enrollee, or the association; and

(H) When proceeding under this subdivision (b)(2), with respect to a policy or contract carrying guaranteed minimum interest rates, the association shall assure the payment or crediting of a rate of interest consistent with § 56-12-204(b)(2)(C).

(c) Nonpayment of premiums within thirty-one (31) days after the date required under the terms of any guaranteed, assumed, alternative, or reissued policy or contract or substitute coverage terminates the association’s obligations under the policy, contract, or coverage under this part with respect to the policy, contract, or coverage, except with respect to any claims incurred or any net cash surrender value which may be due in accordance with this part.

(d) Premiums due for coverage after entry of an order of liquidation of an insolvent insurer belong to and are payable at the direction of the association. If the liquidator of an insolvent insurer requests, the association shall provide a report to the liquidator regarding such premium collected by the association. The association is liable for unearned premiums due to policy or contract owners arising after the entry of the order.

(e) The protection provided by this part does not apply where any guaranty protection is provided to residents of this state by the laws of the domiciliary
state or jurisdiction of the impaired or insolvent insurer other than this state.

(f) In carrying out its duties under subsection (b), the association may:

(1) Subject to approval by a court in this state, impose permanent policy
or contract liens in connection with a guarantee, assumption, or reinsurance
agreement if the association finds that the amounts that can be assessed
under this part are less than the amounts needed to assure full and prompt
performance of the association’s duties under this part, or that the economic
or financial conditions as they affect member insurers are sufficiently
adverse to render the imposition of permanent policy or contract liens, to be
in the public interest; or

(2) Subject to approval by a court in this state, impose temporary
moratoriums or liens on payments of cash values and policy loans, or any
other right to withdraw funds held in conjunction with policies or contracts,
in addition to any contractual provisions for deferral of cash or policy loan
value. In addition, in the event of a temporary moratorium or moratorium
charge imposed by the receivership court on payment of cash values or policy
loans, or on any other right to withdraw funds held in conjunction with
policies or contracts out of the assets of the impaired or insolvent insurer, the
association may defer the payment of cash values, policy loans, or other
rights by the association for the period of the moratorium or moratorium
charge imposed by the receivership court, except for claims covered by the
association to be paid in accordance with a hardship procedure established
by the liquidator or rehabilitator and approved by the receivership court.

(g) The commissioner shall promptly pay to the association a deposit in this
state, held pursuant to law or required by the commissioner for the benefit of
creditors, including policy or contract owners, not turned over to the domicili-
ary liquidator upon the entry of a final order of liquidation or order approving
a rehabilitation plan of a member insurer domiciled in this state or in a
reciprocal state, pursuant to § 56-9-409. The association is entitled to retain a
portion of any amount so paid to it equal to the percentage determined by
dividing the aggregate amount of policy or contract owners’ claims related to
that insolvency for which the association has provided statutory benefits by the
aggregate amount of all policy or contract owners’ claims in this state related
to that insolvency and shall remit to the domiciliary receiver the amount so
paid to the association less the amount retained pursuant to this subsection
(g). Any amount so paid to the association and retained by it is treated as a
distribution of estate assets pursuant to applicable state receivership law
dealing with early access disbursements.

(h) If the association fails to act within a reasonable period of time with
respect to an insolvent insurer, as provided in subsection (b), then the
commissioner has the powers and duties of the association under this part with
respect to the insolvent insurer.

(i) The association may render assistance and advice to the commissioner,
upon the commissioner’s request, concerning rehabilitation, payment of
claims, continuance of coverage, or the performance of other contractual
obligations of an impaired or insolvent insurer.

(j) The association has standing to appear or intervene before a court or
agency in this state with jurisdiction over an impaired or insolvent insurer
concerning which the association is or may become obligated under this part,
or with jurisdiction over any person or property against which the association
may have rights through subrogation or otherwise. Standing extends to all
matters germane to the powers and duties of the association, including, but not limited to, proposals for reinsuring, reissuing, modifying, or guaranteeing the policies or contracts of the impaired or insolvent insurer and the determination of the policies or contracts and contractual obligations. The association also has the right to appear or intervene before a court or agency in another state with jurisdiction over an impaired or insolvent insurer for which the association is or may become obligated or with jurisdiction over any person or property against whom the association may have rights through subrogation or otherwise.

(k)(1) A person receiving benefits under this part is deemed to have assigned the rights under, and any causes of action against any person for losses arising under, resulting from, or otherwise relating to, the covered policy or contract to the association to the extent of the benefits received because of this part, whether the benefits are payments of or on account of contractual obligations, continuation of coverage, or provision of substitute or alternative policies, contracts, or coverages. The association may require an assignment to it of the rights and cause of action by any enrollee, payee, policy, or contract owner, beneficiary, insured, or annuitant as a condition precedent to the receipt of any right or benefits conferred by this part upon the person.

(2) The subrogation rights of the association under this subsection (k) have the same priority against the assets of the impaired or insolvent insurer as that possessed by the person entitled to receive benefits under this part.

(3) In addition to subdivisions (k)(1) and (2), the association has all common law rights of subrogation and any other equitable or legal remedy that would have been available to the impaired or insolvent insurer or owner, beneficiary, enrollee, or payee of a policy or contract with respect to the policy or contracts.

(4) If the preceding provisions of this subsection (k) are invalid or ineffective with respect to any person or claim for any reason, the amount payable by the association with respect to the related covered obligations must be reduced by the amount realized by any other person with respect to the person or claim that is attributable to the policies or contracts or portion thereof covered by the association.

(5) If the association has provided benefits with respect to a covered obligation and a person recovers amounts as to which the association has rights as described in this subsection (k), the person shall pay to the association the portion of the recovery attributable to the policies or contracts or portion thereof covered by the association.

(l) In addition to the rights and powers elsewhere in this part, the association may:

(1) Enter into contracts as are necessary or proper to carry out the provisions and purposes of this part;

(2) Sue or be sued, including taking any legal actions necessary or proper to recover any unpaid assessments under § 56-12-208 and to settle claims or potential claims against it;

(3) Borrow money to effect the purposes of this part. Any notes or other evidence of indebtedness of the association not in default shall be legal investments for domestic member insurers and may be carried as admitted assets;
(4) Employ or retain persons as are necessary or appropriate to handle the financial transactions of the association, and to perform other functions as become necessary or proper under this part;

(5) Take legal action as may be necessary or appropriate to avoid or recover payment of improper claims;

(6) Exercise, for the purposes of this part and to the extent approved by the commissioner, the powers of a domestic life insurer, health insurer, or health maintenance organization, but in no case may the association issue policies or contracts other than those issued to perform its obligations under this part;

(7) Organize itself as a corporation or in other legal form permitted by the laws of the state;

(8) Request information from a person seeking coverage from the association in order to aid the association in determining its obligations under this part with respect to the person, and the person shall promptly comply with the request;

(9) Unless prohibited by law, in accordance with the terms and conditions of the policy or contract, file for actuarially justified rate or premium increases for any policy or contract for which it provides coverage under this part; and

(10) Take other necessary or appropriate action to discharge its duties and obligations under this part or to exercise its powers under this part.

(m) The association may join an organization of one (1) or more other state associations of similar purposes, to further the purposes and administer the powers and duties of the association.

(n)(1)(A) At any time within one hundred eighty (180) days of the date of the order of liquidation, the association may elect to succeed to the rights and obligations of the ceding member insurer that relate to policies, contracts, or annuities covered, in whole or in part, by the association, in each case under any one (1) or more reinsurance contracts entered into by the insolvent insurer and its reinsurers and selected by the association. Any assumption is effective as of the date of the order of liquidation. The election is effected by the association or the National Organization of Life and Health Insurance Guaranty Associations (NOLHGA) on its behalf sending written notice, return receipt requested, to the affected reinsurers.

(B) To facilitate the earliest practicable decision about whether to assume any of the contracts of reinsurance, and in order to protect the financial position of the estate, the receiver and each reinsurer of the ceding member insurer shall make the following available upon request to the association or to NOLHGA on its behalf as soon as possible after commencement of formal delinquency proceedings:

(i) Copies of in-force contracts of reinsurance and all related files and records relevant to the determination of whether the contracts should be assumed; and

(ii) Notices of any defaults under the reinsurance contracts or any known event or condition that with the passage of time could become a default under the reinsurance contracts.

(C) The following apply to reinsurance contracts assumed by the association:

(i) The association is responsible for all unpaid premiums due under the reinsurance contracts for periods both before and after the date of

the order of liquidation, and is responsible for the performance of all other obligations to be performed after the date of the order of liquidation, in each case that relates to policies, contracts, or annuities covered, in whole or in part, by the association. The association may charge policies, contracts, or annuities covered in part by the association, through reasonable allocation methods, the costs for reinsurance in excess of the obligations of the association and shall provide notice and an accounting of these charges to the liquidator;

(ii) The association is entitled to any amounts payable by the reinsurer under the reinsurance contracts with respect to losses or events that occur in periods after the date of the order of liquidation and that relate to policies, contracts, or annuities covered, in whole or in part, by the association. Upon receipt of any such amounts, the association is obliged to pay to the beneficiary under the policy, contracts, or annuity on account of which the amounts were paid a portion of the amount equal to the lesser of:

(a) The amount received by the association; or

(b) The excess of the amount received by the association over the amount equal to the benefits paid by the association on account of the policy, contracts, or annuity less the retention of the insurer applicable to the loss or event;

(iii) Within thirty (30) days following the association’s election, the association and each reinsurer under contracts assumed by the association shall calculate the net balance due to or from the association under each reinsurance contract as of the election date with respect to policies, contracts, or annuities covered, in whole or in part, by the association, which calculation must give full credit to all items paid by either the member insurer or its receiver or the reinsurer prior to the election date. The reinsurer shall pay the receiver any amounts due for losses or events prior to the date of the order of liquidation, subject to any set-off for premiums unpaid for periods prior to the date, and the association or reinsurer shall pay any remaining balance due the other, in each case within five (5) days of the completion of the calculation. Any disputes over the amounts due to either the association or the reinsurer must be resolved by arbitration pursuant to the terms of the affected reinsurance contracts or, if the contract contains no arbitration clause, as otherwise provided by law. If the receiver has received any amounts due the association pursuant to subdivision (n)(1)(C)(ii), the receiver shall remit the same to the association as promptly as practicable; and

(iv) If the association or receiver, on the association’s behalf, within sixty (60) days of the election date, pays the unpaid premiums due for periods both before and after the election date that relate to policies, contracts, or annuities covered, in whole or in part, by the association, the reinsurer is not entitled to terminate the reinsurance contracts for failure to pay premium insofar as the reinsurance contracts relate to policies, contracts, or annuities covered, in whole or in part, by the association, and is not entitled to set off any unpaid amounts due under other contracts, or unpaid amounts due from parties other than the association, against amounts due the association.

(2) During the period from the date of the order of liquidation until the election date, or, if the election date does not occur, until one hundred
eighty (180) days after the date of the order of liquidation:

(A)(i) Neither the association nor the reinsurer has any rights or obligations under reinsurance contracts that the association has the right to assume under subdivision (n)(1), whether for periods prior to or after the date of the order of liquidation; and

(ii) The reinsurer, the receiver, and the association shall, to the extent practicable, provide each other data and records reasonably requested; and

(B) Provided that once the association has elected to assume a reinsurance contract, the parties’ rights and obligations are governed by subdivision (n)(1).

(3) If the association does not elect to assume a reinsurance contract by the election date pursuant to subdivision (n)(1), the association has no rights or obligations for periods both before and after the date of the order of liquidation, with respect to the reinsurance contract.

(4) When policies, contracts, or annuities, or covered obligations with respect thereto, are transferred to an assuming insurer, then the association may also transfer the reinsurance on the policies, contracts, or annuities in the case of contracts assumed under subdivision (n)(1), subject to the following:

(A) Unless the reinsurer and the assuming insurer agree otherwise, the reinsurance contract transferred does not cover any new policies of insurance, contracts, or annuities in addition to those transferred;

(B) The obligations described in subdivision (n)(1) no longer apply with respect to matters arising after the effective date of the transfer; and

(C) The transferring party shall give notice in writing, return receipt requested, to the affected reinsurer not less than thirty (30) days prior to the effective date of the transfer.

(5) This subsection (n) supersedes the provisions of any state law or of any affected reinsurance contract that provides for or requires any payment of reinsurance proceeds on account of losses or events that occur in periods after the date of the order of liquidation to the receiver of the insolvent insurer or any other person. The receiver remains entitled to any amounts payable by the reinsurer under the reinsurance contracts with respect to losses or events that occur in periods prior to the date of the order of liquidation, subject to applicable set-off provisions.

(6) Except as otherwise provided in this section, nothing in this subsection (n) alters or modifies the terms and conditions of any reinsurance contract. Nothing in this section abrogates or limits any rights of any reinsurer to claim that it is entitled to rescind a reinsurance contract. Nothing in this section gives a policyholder, contract owner, enrollee, certificate holder, or beneficiary an independent cause of action against a reinsurer that is not otherwise set forth in the reinsurance contract. Nothing in this section limits or affects the association’s rights as a creditor of the estate against the assets of the estate. Nothing in this section applies to reinsurance agreements covering property or casualty risks.

(o) The board of directors of the association has discretion and shall exercise reasonable business judgment to determine the means by which the association is to provide the benefits of this part in an economical and efficient
manner.

(p) Where the association has arranged or offered to provide the benefits of this part to a covered person under a plan or arrangement that fulfills the association's obligations under this part, the person is not entitled to benefits from the association in addition to or other than those provided under the plan or arrangement.

(q) Venue in a suit against the association arising under this part is in chancery court of Davidson County. The association is not required to give an appeal bond in an appeal that relates to a cause of action arising under this part.

(r) In carrying out its duties in connection with guaranteeing, assuming, reissuing, or reinsuring policies or contracts under this section, the association may issue substitute coverage for a policy or contract that provides an interest rate, crediting rate, or similar factor determined by use of an index or other external reference stated in the policy or contract employed in calculating returns or changes in value by issuing an alternative policy or contract in accordance with the following:

1. In lieu of the index or other external reference provided for in the original policy or contract, the alternative policy or contract provides for:
   A. A fixed interest rate;
   B. Payment of dividends with minimum guarantees; and
   C. A different method for calculating interest or changes in value;

2. There is no requirement for evidence of insurability, waiting period, or other exclusion that would not have applied under the replaced policy or contract; and

3. The alternative policy or contract is substantially similar to the replaced policy or contract in all other material terms.

56-12-208. Assessments.

(a) For the purpose of providing the funds necessary to carry out the powers and duties of the association, the board of directors shall assess the member insurers, separately for each account, at such time and for such amounts as the board finds necessary. Assessments are due not less than thirty (30) days after prior written notice to the member insurers and accrue interest at ten percent (10%) per annum on and after the due date.

(b) There are two (2) classes of assessments, as follows:

1. Class A assessments are made for the purpose of meeting administrative and legal costs and other expenses and examinations conducted under the authority of § 56-12-211(e). Class A assessments may be made whether or not related to a particular impaired or insolvent insurer; and

2. Class B assessments are made to the extent necessary to carry out the powers and duties of the association pursuant to § 56-12-207 with regard to an impaired or an insolvent insurer.

(c)(1) The amount of any Class A assessment is determined by the board and may be made on a pro rata or non-pro rata basis. If pro rata, the board may provide that it be credited against future Class B assessments.

(2) The amount of any Class B assessment, except for assessments related to long-term care insurance, must be allocated for assessment purposes between the accounts and subaccounts of the life insurance and annuity account pursuant to an allocation formula that may be based on the
premiums or reserves of the impaired or insolvent insurer, or any other standard deemed by the board in its sole discretion as being fair and reasonable under the circumstances.

(3) The amount of the Class B assessment for long-term care insurance written by the impaired or insolvent member insurer must be allocated according to a methodology included in the plan of operation and approved by the commissioner. The methodology must provide for fifty percent (50%) of the assessment to be allocated to accident and health member insurers and fifty percent (50%) allocated to life and annuity member insurers.

(4) Class B assessments against member insurers for each account and subaccount must be in the proportion that the premiums received on business in this state by each assessed member insurer on policies or contracts covered by each account for the three (3) most recent calendar years for which information is available preceding the year in which the member insurer became impaired or insolvent, as the case may be, bears to the premiums received on business in this state for those calendar years by all assessed member insurers.

(5) Assessments for funds to meet the requirements of the association with respect to an impaired or insolvent insurer must not be made until necessary to implement the purposes of this part. Classification of assessments by subsection (b) and computation of assessments by this subsection (c) must be made with a reasonable degree of accuracy, recognizing that exact determinations may not always be possible.

(d) The association may abate or defer, in whole or in part, the assessment of a member insurer if, in the opinion of the board, payment of the assessment would endanger the ability of the member insurer to fulfill its contractual obligations. In the event an assessment against a member insurer is abated, or deferred in whole or in part, the amount by which the assessment is abated or deferred may be assessed against the other member insurers in a manner consistent with the basis for assessments set forth in this section.

(e)(1)(A) Subject to subdivision (e)(1)(B), the total of all assessments authorized by the association with respect to a member insurer for each subaccount of the life insurance and annuity account and for the health account must not in one (1) calendar year exceed two percent (2%) of that member insurer’s average annual premiums received in this state on the policies and contracts covered by the subaccount or account during the three (3) calendar years preceding the year in which the member insurer became an impaired or insolvent insurer.

(B) If two (2) or more assessments are authorized in one (1) calendar year with respect to member insurers that become impaired or insolvent in different calendar years, the average annual premiums for purposes of the aggregate assessment percentage limitation referenced in subdivision (e)(1)(A) must be equal and limited to the higher of the three-year average annual premiums for the applicable subaccount or account as calculated pursuant to this section.

(C) If the maximum assessment, together with the other assets of the association in an account, does not provide in one (1) year in either account an amount sufficient to carry out the responsibilities of the association, the necessary additional funds must be assessed as soon thereafter as permitted by this part.
(2) The board may provide in the plan of operation a method of allocating funds among claims, whether relating to one (1) or more impaired or insolvent insurers, when the maximum assessment will be insufficient to cover anticipated claims.

(3) If the maximum assessment for a subaccount of the life and annuity account in one (1) year does not provide an amount sufficient to carry out the responsibilities of the association, then pursuant to subdivision (c)(2), the board has the authority to assess the other subaccounts of the life and annuity account for the necessary additional amount, subject to the maximum stated in subdivision (e)(1).

(f) The board may, by an equitable method established in the plan of operation, refund to member insurers, in proportion to the contribution of each member insurer to that account, the amount by which the assets of the account exceed the amount the board finds is necessary to carry out during the coming year the obligations of the association with regard to that account, including assets accruing from assignment, subrogation, net realized gains, and income from investment. A reasonable amount may be retained in any account to provide funds for the continuing expenses of the association and for future claims.

(g) It is proper for any member insurer, in determining its premium rates and policy owner dividends as to any kind of insurance or health maintenance organization business within the scope of this part, to consider the amount reasonably necessary to meet its assessment obligations under this part.

(h) The association shall issue to each member insurer paying an assessment under this part, other than Class A assessments, a certificate of contribution, in a form prescribed by the commissioner, for the amount of the assessment paid. All outstanding certificates must be of equal dignity and priority without reference to amounts or dates of issue. A certificate of contribution may be shown by the member insurer in its financial statement as an asset in the form and for the amount, if any, and period of time as the commissioner may approve.

(i)(1) A member insurer that wishes to protest all or part of an assessment shall pay when due the full amount of the assessment set forth in the notice provided by the association so that the payment is available to meet association obligations during the pendency of the protest or any subsequent appeal. Payment must be accompanied by a written statement that the payment is made under protest and setting forth a brief statement of the grounds for the protest.

(2) Except as provided in subdivision (i)(4), within sixty (60) days following the payment of an assessment under protest by a member insurer, the association shall notify the member insurer in writing of its determination with respect to the protest unless the association notifies the member insurer that additional time is required to resolve the issues raised by the protest.

(3) Within thirty (30) days after a final decision has been made, the association shall notify the protesting member insurer in writing of that final decision. Within sixty (60) days of receipt of notice of the final decision, the protesting member insurer may appeal that final action to the commissioner.

(4) In the alternative to rendering a final decision with respect to a protest based on a question regarding the assessment base, the association may refer protests to the commissioner for a final decision, with or without a
recommendation from the association.

(5) If the protest or appeal on the assessment is upheld, then the association shall return the amount paid in error or excess plus applicable interest to the member insurer. Interest on a refund due a protesting member insurer must be paid at the rate actually earned by the association.

(j) The association may request information of member insurers in order to aid in the exercise of its power under this section, and member insurers shall promptly comply with a request.

56-12-218. Sales promotions listing association prohibited — Disclaimer notice.

(a) No person, including a member insurer or agent or affiliate of a member insurer shall make, publish, disseminate, circulate, or place before the public, or cause directly or indirectly to be made, published, disseminated, circulated, or placed before the public in any newspaper, magazine, or other publication, or in the form of a notice, circular, pamphlet, letter, or poster, or over any radio or television broadcast, or in any other way, any advertisement, announcement, or statement, written or oral, that uses the existence of the Tennessee life and health insurance guaranty association for the purpose of sales, solicitation, or inducement to purchase any form of insurance or other coverage covered by this part. However, this section does not apply to the Tennessee life and health insurance guaranty association or any other entity that does not sell or solicit insurance or coverage by a health maintenance organization.

(b) The association shall prepare a summary document that describes the general purposes and current limitations of this part and that complies with subsection (c). This document must be submitted to the commissioner for approval. At the expiration of the sixtieth day after the date on which the commissioner approves the document, a member insurer shall not deliver a policy or contract to a policy owner, contract owner, certificate holder, or enrollee unless the summary document is delivered to the policy owner, contract owner, certificate holder, or enrollee at the time of delivery of the policy or contract. The document must also be available upon request by a policy owner, contract owner, certificate holder, or enrollee. The distribution, delivery, or contents or interpretation of this document does not guarantee that either the policy or the contract, or the policy owner, contract owner, certificate holder, or enrollee is covered in the event of the impairment or insolvency of a member insurer. The association shall revise the document as amendments to this part require. Failure to receive the summary document does not give the policy owner, contract owner, certificate holder, enrollee, or insured any greater rights than those stated in this part.

(c) The document prepared under subsection (b) must contain a clear and conspicuous disclaimer on its face. The commissioner shall establish the form and content of the disclaimer. The disclaimer must:

(1) State the name and address of the Tennessee life and health insurance guaranty association and department of commerce and insurance;

(2) Prominently warn the policy owner, contract owner, certificate holder, or enrollee that the Tennessee life and health insurance guaranty association may not cover the policy or contract or, if coverage is available, it will be subject to substantial limitations and exclusions and conditioned on continued residence in this state;
(3) State the types of policies or contracts for which guaranty funds will provide coverage;

(4) State that the member insurer and its agents are prohibited by law from using the existence of the Tennessee life and health insurance guaranty association for the purpose of sales, solicitation, or inducement to purchase any form of insurance or health maintenance organization coverage;

(5) State that the policy owner, contract owner, certificate holder, or enrollee should not rely on coverage under the Tennessee life and health insurance guaranty association when selecting an insurer or health maintenance organization;

(6) Explain the rights available and procedures provided for filing a complaint to allege a violation of this part; and

(7) Provide other information as directed by the commissioner, including, but not limited to, sources for information about the financial condition of insurers; provided, that the information is not proprietary or is not protected from disclosure under Tennessee's public records law.

(d) A member insurer shall retain evidence of compliance with subsection (b) for so long as the policy or contract for which the notice is given remains in effect.


(a) Any captive insurance company, when permitted by its organizational documents, may apply to the commissioner for a license to do any and all insurance comprised in §§ 56-2-201(2) and (4)-(7), 56-2-202, 56-2-203, and 56-2-204; provided, however, that:

(1) No pure captive insurance company shall insure any risks other than those of its parent and affiliated companies or a controlled unaffiliated business or businesses;

(2) No association captive insurance company shall insure any risks other than those of its association, those of the member organizations of its association, and those of a member organization's affiliated companies;

(3) No industrial insured captive insurance company shall insure any risks other than those of the industrial insureds that comprise the industrial insured group, those of their affiliated companies, and those of the controlled unaffiliated business of an industrial insured or its affiliated companies;

(4) No risk retention group shall insure any risks other than those of its members and owners;

(5) No captive insurance company shall provide personal motor vehicle or homeowner's insurance coverage or any component thereof;

(6) No captive insurance company shall accept or cede reinsurance except as provided in §§ 56-13-112 and 56-13-412;

(7) Any captive insurance company may provide excess or stop-loss accident and health insurance, unless prohibited by federal law or the laws of the state having jurisdiction over the transaction;

(8) Except as provided in subdivision (a)(9), a captive insurance company may only issue policies of workers' compensation insurance to an insured or an affiliate who otherwise qualifies and maintains its qualifications as a self-insured under title 50, chapter 6; provided, that a captive insurance company may provide excess or stop-loss workers' compensation coverage for those insureds not qualifying as self-insureds. The commissioner has the
discretion to waive the requirements of this subdivision (a)(8) and the self-insurance requirements of § 50-6-405(b) and (c), according to guidelines established through the promulgation of rules or regulations; and

(9) Any association captive insurance company of an association that is described in § 56-13-102(3)(B) or mutual captive insurance company whose member organizations or insureds are the type member organizations described in § 56-13-102(3)(B) may issue policies of workers' compensation, directors' and officers' liability, and public officials' liability insurance and reinsurance in addition to the insurance and reinsurance otherwise permitted to be made under this section.

(b) Except as provided in subsection (f), no captive insurance company shall transact any insurance business in this state unless:

(1) It first obtains from the commissioner a license authorizing it to do insurance business in this state;

(2) Its board of directors or committee of members or managers or, in the case of a reciprocal insurer, its subscribers' advisory committee holds at least one (1) meeting each year in this state;

(3) It maintains its principal place of business in this state; and

(4) It appoints a registered agent to accept service of process and to otherwise act on its behalf in this state; provided, that whenever such registered agent cannot with reasonable diligence be found at the registered office of the captive insurance company, the commissioner shall be an agent of such captive insurance company upon whom any process, notice, or demand may be served.

(c)(1) In order to receive a license to issue policies of insurance as a captive insurance company in this state, an applicant business entity shall meet the requirements of this subdivision (c)(1).

(A) The applicant business entity shall submit its organizational documents to the commissioner. If the commissioner approves the organizational documents, then the commissioner shall issue a letter to the applicant certifying the commissioner's approval. The applicant business entity shall submit the organizational documents, along with a copy of the approval letter issued by the commissioner, and the required filing fees for organizational documents prescribed in title 48 and title 61 to the secretary of state for filing. Upon filing the organizational documents, the secretary of state shall issue an acknowledgment letter to the applicant. The applicant business entity shall submit a copy of the acknowledgment letter relative to the applicant’s organizational documents issued by the secretary of state to the commissioner.

(B) The applicant business entity shall also file with the commissioner evidence of the following:

(i) The amount and liquidity of its assets relative to the risks to be assumed;

(ii) The adequacy of the expertise, experience, and character of the person or persons who will manage it;

(iii) The overall soundness of its plan of operation;

(iv) The adequacy of the loss prevention programs of its insureds; and

(v) Such other factors deemed relevant by the commissioner in ascertaining whether the applicant business entity will be able to meet its policy obligations.
(C) No less than the amount required by § 56-13-105 shall be paid in by the applicant business entity and deposited with the commissioner. In the alternative, an irrevocable letter of credit in that amount and acceptable to the commissioner shall be filed with the commissioner.

(D) Upon compliance with subdivision (c)(1)(C), the applicant business entity shall be certified as compliant with this chapter through examination by the commissioner. The department shall be reimbursed for the cost of the examination in accordance with § 56-1-413.

(E) The applicant business entity shall submit to the commissioner for approval a description of the coverages, deductibles, coverage limits, and rates, together with such additional information as the commissioner may reasonably require.

(2)(A) Whenever a captive insurance company desires to amend the organizational documents submitted pursuant to subdivision (c)(1)(A), the company shall submit the amended organizational documents to the commissioner. If the commissioner approves the amendment, then the commissioner shall issue a letter to the applicant certifying the commissioner's approval. The applicant business entity shall submit the organizational documents, along with a copy of the approval letter issued by the commissioner, and the required filing fees for organizational documents prescribed in title 48 and title 61 to the secretary of state for filing. Upon filing the organizational documents, the secretary of state shall issue an acknowledgment letter to the applicant. The applicant shall submit a copy of the acknowledgment letter relative to the applicant's organizational documents issued by the secretary of state to the commissioner.

(B) If a captive insurance company makes any subsequent material change to any item in the description submitted pursuant to subdivision (c)(1)(E), then the company shall submit an appropriate revision to the commissioner for approval and shall not offer any additional kinds of insurance until a revision of such description is approved by the commissioner. The captive insurance company shall inform the commissioner of any material change in rates within thirty (30) days of the adoption of such change.

(3) Information submitted pursuant to this subsection (c) shall be and remain confidential, and shall not be made public by the commissioner without the written consent of the captive insurance company, except that:

(A) Such information may be discoverable by a party in a civil action or contested case to which the captive insurance company that submitted such information is a party, upon a showing by the party seeking to discover such information that:

(i) The information sought is relevant to and necessary for the furtherance of such action or case;

(ii) The information sought is unavailable from other non-confidential sources; and

(iii) A subpoena issued by a judicial or administrative officer of competent jurisdiction has been submitted to the commissioner; provided, however, that this subdivision (c)(3) shall not apply to any risk retention group; and

(B) The commissioner shall have the discretion to disclose such information to a public officer having jurisdiction over the regulation of insurance in another state; provided, that:
(i) Such public official shall agree in writing to maintain the confidentiality of such information; and

(ii) The laws of the state in which such public official serves require such information to be and to remain confidential.

(d) Each captive insurance company shall make payments to the commissioner in accordance with the fee schedule established in chapter 4, part 1 of this title. The commissioner is authorized to retain legal, financial, and examination services from outside the department, the reasonable costs of which may be charged against the applicant. Sections 56-1-401 — 56-1-420 shall apply to examinations, investigations, and processing conducted under the authority of this section.

(e) If the commissioner is satisfied that the documents and statements filed by an applicant captive insurance company comply with this chapter, then the commissioner may grant a license authorizing it to do insurance business in this state. The commissioner may make the license effective as of any date on or before the date the license is signed as long as the effective date is no earlier than the date of incorporation of the applicant captive insurance company.

(f) Any captive insurance company licensed and in good standing on September 1, 2011, which was licensed under the former “Tennessee Captive Insurance Act of 1978”, shall not be required to obtain a new license as required in this section; provided, that any such captive insurance company is subject to the remainder of this chapter.

56-13-104. Names of companies — “Certificate of Authority”.

(a) No captive insurance company shall adopt a name that is the same, deceptively similar, or likely to be confused with or mistaken for any other existing business name registered in this state, nor any name likely to mislead the public. Any name adopted by a captive insurance company shall comply with the requirements of titles 48 and 61.

(b) A license issued pursuant to this chapter is a “Certificate of Authority”.

56-13-105. Capital and surplus requirements.

(a) No captive insurance company shall be issued a license unless it possesses and maintains unimpaired paid-in capital and surplus of:

1) In the case of a pure captive insurance company, not less than two hundred fifty thousand dollars ($250,000);

2) In the case of an association captive insurance company, not less than five hundred thousand dollars ($500,000);

3) In the case of an industrial insured captive insurance company, not less than five hundred thousand dollars ($500,000);

4) In the case of a risk retention group, not less than one million dollars ($1,000,000); and

5) In the case of a protected cell captive insurance company, not less than two hundred fifty thousand dollars ($250,000).

(b) The commissioner may prescribe additional capital and surplus based upon the type, volume, and nature of insurance business to be transacted.

(c)(1) Capital and surplus required under subsection (a) must be in the form of cash, cash equivalent, marketable securities, or an irrevocable letter of credit issued by a bank approved by the commissioner.

(2) Marketable securities must consist of bonds of the United States, or any agency or instrumentality of the United States, which have been
included in the three (3) highest grades by any of the recognized securities rating firms, bonds of this state, or bonds publicly issued by any solvent institution created or existing under the laws of the United States or any state of the United States, which have been included in the three (3) highest grades by any of the recognized securities rating firms.

(3) Captive insurance companies using marketable securities to meet the capital and surplus requirements of subsection (a) shall file with the commissioner a certificate of an official with whom the securities are deposited, stating the time and amount, and that the official is satisfied that they are worth the amount required under subsection (a) and that the deposit is made with the official by the company for the protection of all policyholders and creditors.

(4) Notwithstanding subdivision (c)(1), the commissioner may decline to accept as a deposit any specific issue of securities that the commissioner has determined may not provide the necessary protection to policyholders and creditors.

(d) Except as otherwise provided in this chapter, chapter 9 of this title shall apply to captive insurance companies formed under this chapter.


(a) Any captive insurance company may provide reinsurance as authorized by this title on risks ceded by any other insurer.

(b) Any captive insurance company may take credit for the reinsurance of risks or portions of risks ceded to reinsurers complying with this title. If the reinsurer is licensed as a risk retention group, then the ceding risk retention group or its members must qualify for membership with the reinsurer. The commissioner shall have the discretion to allow a captive insurance company to take credit for the reinsurance of risks or portions of risks ceded to an unauthorized reinsurer, after review, on a case by case basis. The commissioner may require any documents, financial information or other evidence that such an unauthorized reinsurer will be able to demonstrate adequate security for its financial obligations.

(c) In addition to reinsurers authorized by this title, a captive insurance company may take credit for the reinsurance of risks or portions of risks ceded to a pool, exchange or association to the extent authorized by the commissioner. The commissioner may require any documents, financial information or other evidence that such a pool, exchange or association will be able to provide adequate security for its financial obligations. The commissioner may deny authorization or impose any limitations on the activities of a reinsurance pool, exchange or association that, in the commissioner’s judgment, are necessary and proper to provide adequate security for the ceding captive insurance company and for the protection and consequent benefit of the public at large.

(d) Except where specifically provided otherwise, insurance by a captive insurance company of any workers’ compensation or accident and health qualified self-insured plan of its parent and affiliates, and the assumption of risk by a captive insurance company under any service contract issued by a parent or affiliate, is deemed to be reinsurance.
56-13-118. Approval of material change of plan of operation — Filing of change of information.

(a) No captive insurance company shall make any material change or changes to its plan of operation until the department has approved the change or changes.

(b) Each subsequent material change of plan of operation filed during each year is subject to the fee described in § 56-4-101(a)(8).

(c) For purposes of this section and § 56-4-101(a)(8), the “plan of operation” and “business plan” have the same meaning.

(d) A change in any information filed with the application that does not constitute a material change, or a change otherwise requiring commissioner approval, must be filed with the commissioner within thirty (30) days, but does not require prior approval under this section.

56-13-120. Violations and penalties.

(a) If, after providing notice consistent with the process established by § 4-5-320(c) and providing the opportunity for a contested case hearing held in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, part 3, the commissioner finds that any insurer, person, or entity required to be licensed, permitted, or authorized to transact the business of insurance under this chapter has violated any provision of this chapter or any rule or regulation authorized by this chapter, the commissioner may order:

(1) The insurer, person, or entity to cease and desist from engaging in the act or practice giving rise to the violation;

(2) Payment of a monetary penalty of not more than one thousand dollars ($1,000) for each violation, but not to exceed an aggregate penalty of one hundred thousand dollars ($100,000), unless the insurer, person, or entity knowingly violates a statute, rule or order, in which case the penalty shall not be more than twenty-five thousand dollars ($25,000) for each violation, not to exceed an aggregate penalty of two hundred fifty thousand dollars ($250,000). This subdivision (a)(2) shall not apply where a statute or rule specifically provides for other civil penalties for the violation. For purposes of this subdivision (a)(2), each day of continued violation shall constitute a separate violation; and

(3) The suspension or revocation of the insurer's, person's, or entity's license.

(b) Section 56-13-103(c)(3) applies to any action taken by the commissioner pursuant to this section.

56-13-122. Audit by the comptroller of the treasury — Annual reports.

(a) The regulation of captive insurance companies as authorized by this chapter is subject to audit by the comptroller of the treasury as otherwise provided by state law. Information submitted to the department by captive insurance companies subject to this chapter shall, without written request, be open to inspection by, or disclosure to, the comptroller of the treasury or the comptroller's designated representative for purposes of audit.

(b) The commissioner shall annually report to the commerce and labor committee of the senate, and the insurance committee of the house of representatives regarding the captive insurance company program. Such
report shall include, but not be limited to, the number and types of captive insurance companies authorized by the commissioner to conduct business in this state, the amount of premium tax and fee revenues generated pursuant to the program, and any recommendations for legislative action to improve the captive insurance company program.

56-13-125. Payment of premiums and claims in foreign currency or foreign securities.

(a) For purposes of this section:
   (1) “Foreign” means outside the United States, its territories, or possessions;
   (2) “Foreign currency” means currency issued by a government outside the United States that is recognized by the United States as a legitimate government-issued currency and freely exchangeable with United States currency; and
   (3) “Foreign securities” means securities that are ordinarily traded on an exchange outside the United States.

(b) A captive insurance company or an individual cell of a captive insurance company may, with the approval of the commissioner, include within its plan of operation that the company will:
   (1) Receive payments of premium in a specified foreign currency or foreign securities and will pay claims on insured losses in a specified currency or foreign securities;
   (2) Authorize the payment of claims in a specified foreign currency or foreign securities; and
   (3) Hold foreign currency or foreign securities as surplus for the payment of future claims.

(c) In determining the exchange rate between United States currency and the foreign currency or foreign securities, the captive insurance company shall identify in its approved plan of operation a publicly available and reliable exchange rate index. If the exchange rate index identified in the plan of operation is not available, then the commissioner must determine the appropriate exchange rate for the purpose of calculating the amount of premium tax due.

(d) For the purpose of calculating the amount of premium tax due under § 56-13-114, a policy issued by a captive insurance company payable in foreign currency or foreign securities is deemed to be of an equivalent value in United States currency as of the date that coverage is bound and is payable in United States currency when due under § 56-13-114.

(e) For captive insurance companies and protected cells that have received permission pursuant to subsection (b), all reports required to be filed pursuant to § 56-13-108 must be converted to United States currency for the reporting period covered by the annual report.

56-13-204. Conditions for formation or licensure.

A protected cell captive insurance company formed or licensed under this chapter may establish and maintain one (1) or more incorporated or unincorporated protected cells, to insure risks of one (1) or more participants, subject to the following conditions:

(1)(A) A protected cell captive insurance company may establish one (1) or more protected cells if the commissioner has approved in writing a plan of
A plan of operation must include, but is not limited to, the specific business objectives and investment guidelines of the protected cell. However, the commissioner may require additional information in the plan of operation. The commissioner may make the approval of a plan of operation or amendments to a plan of operation effective as of any date on or before the date the approval is signed as long as the effective date is no earlier than the date on which the plan of operation or amendments to the plan of operation were filed with the department;

(B) Upon the commissioner’s written approval of the plan of operation, the protected cell captive insurance company, in accordance with the approved plan of operation, may attribute insurance obligations with respect to its insurance business to the protected cell;

(C) A protected cell shall have its own distinct name or designation that shall include the words “protected cell” or “incorporated cell”; provided, an incorporated cell formed as a series of a limited liability company, if formed after July 1, 2015, shall bear a distinct name or designation as reflected in its formation documents and shall include the words “series cell”;

(D) The protected cell captive insurance company shall transfer all assets attributable to a protected cell to one (1) or more separately established and identified protected cell accounts bearing the name or designation of that protected cell. Protected cell assets must be held in the protected cell accounts for the purpose of satisfying the obligations of that protected cell;

(E) An incorporated protected cell may be organized and operated in any form of business organization authorized by the commissioner, including, but not limited to, an individual series of a limited liability company as provided for in title 48, chapter 249. Each incorporated protected cell of a protected cell captive insurer must be treated as a captive insurer for purposes of this chapter and has the power to enter into contracts, including an individual series of a limited liability company. Unless otherwise permitted by the organizational documents of a protected cell captive insurer, each incorporated protected cell of the protected cell captive insurer must have the same directors, secretary, and registered office as the protected cell captive insurer;

(F) All attributions of assets and liabilities between a protected cell and the general account shall be in accordance with the plan of operation and participant contracts approved by the commissioner. No other attribution of assets or liabilities shall be made by a protected cell captive insurance company between the protected cell captive insurance company’s general account and its protected cells. Any attribution of assets and liabilities between the general account and a protected cell shall be in cash or in readily marketable securities with established market values;

(2) The creation of a protected cell does not create, with respect to that protected cell, a legal person separate from the protected cell captive insurance company unless the protected cell is an incorporated cell. Amounts attributed to a protected cell under this part, including assets transferred to a protected cell account, are owned by the protected cell. No protected cell captive insurance company shall be, or hold itself out to be, a trustee with
respect to those protected cell assets of that protected cell account. Notwithstanding this subdivision (2), the protected cell captive insurance company may allow for a security interest to attach to protected cell assets or a protected cell account when in favor of a creditor of the protected cell and otherwise allowed under applicable law;

(3) This chapter shall not be construed to prohibit the protected cell captive insurance company from contracting with or arranging for an investment advisor, commodity trading advisor, or other third party to manage the protected cell assets of a protected cell, if all remuneration, expenses, and other compensation of the third party advisor or manager are payable from the protected cell assets of that protected cell and not from the protected cell assets of other protected cells or the assets of the protected cell captive insurance company’s general account;

(4)(A) A protected cell captive insurance company shall establish administrative and accounting procedures necessary to properly identify the one or more protected cells of the protected cell captive insurance company and the protected cell assets and protected cell liabilities attributable to the protected cells. The directors of a protected cell captive insurance company shall keep protected cell assets and protected cell liabilities:

(i) Separate and separately identifiable from the assets and liabilities of the protected cell captive insurance company's general account; and

(ii) Attributable to one (1) protected cell separate and separately identifiable from protected cell assets and protected cell liabilities attributable to other protected cells;

(B) If subdivision (4)(A) is violated, then the remedy of tracing is applicable to protected cell assets when commingled with protected cell assets of other protected cells or the assets of the protected cell captive insurance company's general account. The remedy of tracing shall not be construed as an exclusive remedy;

(5) When establishing a protected cell, the protected cell captive insurance company shall attribute to the protected cell assets a value at least equal to the reserves and other insurance liabilities attributed to that protected cell;

(6) Each protected cell shall be accounted for separately on the books and records of the protected cell captive insurance company to reflect the financial condition and results of operations of such protected cell, net income or loss, dividends or other distributions to participants, and such other factors as may be provided in the participant contract or required by the commissioner;

(7) No asset of a protected cell shall be chargeable with liabilities arising out of any other insurance business the protected cell captive insurance company may conduct;

(8) No sale, exchange, or other transfer of assets shall be made by such protected cell captive insurance company between or among any of its protected cells without the consent of such protected cells;

(9) No sale, exchange, transfer of assets, dividend, or distribution shall be made from a protected cell to a protected cell captive insurance company or participant without the commissioner’s approval. In no event shall the commissioner’s approval be given if the sale, exchange, transfer, dividend or distribution would result in the insolvency or impairment of a protected cell;

(10) All attributions of assets and liabilities to the protected cells and the general account shall be in accordance with the plan of operation approved
by the commissioner. No other attribution of assets or liabilities shall be made by a protected cell captive insurance company between its general account and any protected cell or between any protected cells. The protected cell captive insurance company shall attribute all insurance obligations, assets, and liabilities relating to a reinsurance contract entered into with respect to a protected cell to such protected cell. The performance under such reinsurance contract and any tax benefits, losses, refunds, or credits allocated pursuant to a tax allocation agreement to which the protected cell captive insurance company is a party, including any payments made by or due to be made to the protected cell captive insurance company pursuant to the terms of such agreement, shall reflect the insurance obligations, assets, and liabilities relating to the reinsurance contract that are attributed to such protected cell;

(11) In connection with the conservation, rehabilitation, or liquidation of a protected cell captive insurance company, the assets and liabilities of a protected cell shall, to the extent the commissioner determines they are separable, at all times be kept separate from, and shall not be commingled with, those of other protected cells and the protected cell captive insurance company;

(12) Each protected cell captive insurance company shall annually file with the commissioner such financial reports as required by the commissioner. Any such financial report shall include, without limitation, accounting statements detailing the financial experience of each protected cell;

(13) Each protected cell captive insurance company shall notify the commissioner in writing within ten (10) business days of any protected cell that is insolvent or otherwise unable to meet its claim or expense obligations;

(14) No participant contract shall take effect without the commissioner’s prior written approval. The addition of each new protected cell, the withdrawal of any participant, or the termination of any existing protected cell shall constitute a change in the plan of operation requiring the commissioner’s prior written approval;

(15) The business written by a protected cell captive insurance company, with respect to each protected cell, shall be:

(A) Fronted by an insurance company licensed under the laws of any state;

(B) Reinsured by a reinsurer authorized or approved by this state; or

(C) Secured by a trust fund in the United States for the benefit of policyholders and claimants or funded by an irrevocable letter of credit or other arrangement that is acceptable to the commissioner. The amount of security provided shall be no less than the reserves associated with those liabilities which are neither fronted nor reinsured, including reserves for losses, allocated loss adjustment expenses, incurred but not reported losses and unearned premiums for business written through the participant’s protected cell. The commissioner may require the protected cell captive insurance company to increase the funding of any security arrangement established under a subdivision (15). If the form of security is a letter of credit, the letter of credit shall be issued or confirmed by a bank approved by the commissioner. A trust maintained pursuant to this subdivision (15) shall be established in a form and upon such terms approved by the commissioner;

(16) Notwithstanding this title or other laws of this state, and in addition to § 56-13-207, in the event of an insolvency of a protected cell captive
insurance company where the commissioner determines that one (1) or more protected cells remain solvent, the commissioner may separate such cells from the protected cell captive insurance company and may allow, on application of the protected cell captive insurance company, for the conversion of such protected cells into one (1) or more new or existing protected cell captive insurance companies, or one (1) or more other captive insurance companies, pursuant to such plan of operation as the commissioner deems acceptable;

(17) Biographical affidavits are not required for participants in unincorporated cells. However, biographical affidavits are required for owners of incorporated cells, including series members of a series LLC; and

(18) A protected cell captive insurance company formed or licensed under this chapter may establish and operate both unincorporated and incorporated protected cells.

56-13-209. Conversion, disaffiliation, or merger of protected cell — Conversion to protected cell captive insurance company.

(a)(1) Upon the application of a protected cell captive insurance company, one of its protected cells may be converted to any form of captive insurance company authorized pursuant to this chapter with the consent of the commissioner. Upon compliance with part 1 of this chapter, the commissioner may issue to the converting protected cell a certificate of authority with an effective date of its original date of formation as a protected cell.

(2) If the converting protected cell is a series of a limited liability company, the cell shall file organizational documents with the secretary of state that comply with part 1 of this chapter and titles 48 and 61 as applicable. The organizational documents shall include the date of formation as a series. Upon conversion, the formation date of the series shall be deemed the formation date of the new entity. The new entity shall possess all assets and liabilities, including outstanding insurance liabilities, owned by the predecessor series.

(3) If the converting protected cell is any other type of incorporated protected cell entity, then the converting protected cell shall submit amended organizational documents to the secretary of state that comply with part 1 of this chapter and titles 48 and 61 as applicable.

(4) If the converting protected cell is neither a series of a limited liability company nor an incorporated protected cell, the cell shall file organizational documents with the secretary of state that comply with part 1 of this chapter, titles 48 and 61 as applicable, or any other applicable provision governing formation of that type of entity. The organizational documents shall include the date of formation as a cell. Upon conversion, the formation date of the cell shall be deemed the formation date of the new entity. The new entity shall possess all assets and liabilities, including outstanding insurance liabilities, owned by the predecessor cell.

(b) A captive insurance company may apply to the commissioner for conversion to become a protected cell captive insurance company under any form permitted under this part. Upon compliance with this part, approval by the commissioner, and the filing of amended organizational documents with the secretary of state, the captive insurance company shall be issued a revised certificate of authority. The effective date of the revised protected cell captive insurance company’s certificate of authority shall remain the same as the
effective date of the prior captive insurance company.

(c) With the consent of both the affected protected cell captive insurance companies and the commissioner, an individual protected cell of a captive insurance company may disaffiliate from one protected cell captive insurance company and affiliate with another protected cell captive insurance company. The commissioner may require the affected protected cell captive insurance companies and the individual protected cell to make necessary changes to their business plans, organizational documents, participation agreements, or other governing documents prior to approving the change in affiliation. The formation date of a protected cell that affiliates with another protected cell captive insurance company shall be the date of its original formation with the prior protected cell captive insurance company. A protected cell shall maintain and carry over all assets and liabilities, including outstanding insurance liabilities, to the new protected cell captive insurance company.

(d) With the consent of the affected protected cell captive insurance company or companies, the owners or the participants of the protected cells, and the commissioner, an individual protected cell of a captive insurance company may merge or otherwise combine assets and liabilities with another individual protected cell of a protected cell captive insurance company. The commissioner may require the affected protected cell captive insurance companies and the individual protected cells to make necessary changes to their business plans, organizational documents, participation agreements, or other governing documents prior to approving the change in affiliation. The formation date of a protected cell that merges or otherwise combines assets and liabilities with another protected cell captive insurance company is the date of the original formation of the surviving protected cell. The surviving protected cell must acquire all of the assets and liabilities, including outstanding insurance liabilities, of the merging protected cell. A hearing is not required for mergers of protected cells effectuated under this section.

(e) Solely for the purposes of §§ 56-13-108, 56-13-109, and 56-13-114, the date of final conversion or disaffiliation of a protected cell shall be deemed a termination of that cell from the prior entity. The prior entity shall be responsible for the accounting, oversight, and premium tax on any transactions prior to the date of final conversion or disaffiliation. The successor entity shall be responsible for the accounting, oversight, and premium tax on any transactions on or after the date of final conversion or disaffiliation.

56-47-105. Penalties.

Violations of § 56-47-103(a), (b) and (c) are to be valued according to § 39-11-106(a)(38), and punished as theft under § 39-14-105. Violations of § 56-47-103(d) shall be valued to include the total amount of workers’ compensation premiums that the employer avoided paying, to be calculated by utilizing the appropriate Tennessee assigned risk plan advisory prospective loss cost and multiplier for such an employer for the total number of years, and parts of years, during which the employer was subject to the workers’ compensation law and intentionally failed to secure payment of compensation as required by the workers’ compensation law, and the violations shall be punished as theft under § 39-14-105.
57-3-201. License classifications.

The alcoholic beverage commission may issue, under this chapter, the following classes of licenses, in relation to alcoholic spirituous beverages exclusively, which shall consist of the following classes only:

1. Manufacturer's or distiller's or rectifier's license;
2. Liquor wholesaler's license;
3. Liquor retailer's license;
4. Winery license;
5. Winery direct shipper's license;
6. Alcoholic beverage collector's license;
7. Winemaking on premises facility license;
8. Farm wine permit; and
9. Wine at retail food store license.

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 wholesaler 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 ten o'clock a.m. (10:00 a.m.) and eleven o'clock p.m. (11:00 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).

(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, includ-
ing any juices, concentrates, and other ingredients used in the prepa-
ration 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.

57-3-207. Grape and Wine Law.

(a) This section shall be known and may be cited as the “Grape and Wine 
Law.” This section shall prevail over any conflicting statutory provision.

(b) A winery license may be issued as provided in this section for the 
manufacture of alcoholic vinous beverages, as defined in § 57-3-101, upon a 
verified, written application to the commission on the proper form authorized 
to be prescribed and furnished in this section, and the application may be 
granted by the commission, subject to the restrictions of this chapter. Any 
winery license issued pursuant to this section shall authorize the holder of the 
license to manufacture, but not rectify, alcoholic vinous beverages, unless the
holder of the license is also a distiller or rectifier, or both, holding a license to
distill or rectify, or both, alcoholic spirituous beverages, and the winery license
shall authorize the holder of the license to place the alcoholic vinous beverages
in containers or bottles. Out-of-state wineries may apply for and obtain a
winery license issued in accordance with this section.

(c) Each applicant for a winery license issued pursuant to this section 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. The
license shall not be issued until a license fee of one hundred and fifty dollars
($150) is paid to the commission by the winery, but issuance of the license is
exempt from the requirements of § 57-3-106. The commission shall deposit
collections with the state treasurer to be earmarked for and allocated to the
commission for the purpose of the administration and enforcement of the
duties, powers and functions of the commission.

(d) No winery license shall be issued except to persons who have not been
convicted, and whose officers and principals have not been convicted, within a
period of five (5) years preceding application of any felony or any violation of
any state or federal laws relating to alcoholic beverages.

(e) Notwithstanding this section, a private individual in that person's own
home may manufacture wine in an amount not in excess of that amount
annually permitted as of March 22, 1973, by federal statute and regulations
relative to household manufacture and consumption; provided, that the wine is
for personal consumption by members of that person's household.

(f)(1) A winery licensed under this section may, to the extent permitted
under federal law, serve wine, with or without charge, as samples for tasting
on the premises at the winery and may sell wine at retail in sealed
containers at the winery.

(2) A winery licensed under this section may donate wine without charge
to nonprofit religious, educational or charitable institutions or associations.

(3) For purposes of this section, “premises” means any and all of the real
property owned or leased by the winery.

(g) A winery licensed under this section may exchange wine in bulk with
other wineries and the bulk exchange, whether in return for wine or other
consideration, shall not be considered a sale subject to tax.

(h)(1) In addition to its own wine, a winery or farm winery permit holder is
authorized to sell at retail items related to or incidental to the use,
consumption, dispensing, or storage of wine on the licensed premises. Such
items may include, but are not limited to:

(A) Juices or concentrates derived from juices, or any agricultural
products;

(B) Items used in home winemaking;

(C) Gift or tourism related items including baskets or gift cards;

(D) Utensils and supplies related or incidental to the use, consumption,
dispensing or storage of wine, including, without limitation, wine glasses,
corkscrews, beverage strainers, pourers, flasks, jiggers, stirrers, wine
racks, wine refrigerators, wine cellars, pouring aids, coasters, bottle
stoppers, decanters, carafes, glassware, ice crushers, bottle openers, can
openers, and devices to maximize oxidation in uncorked wine bottles and
other items used in connection with the consumption, storage, or dispensing
of wine;

(E) Fruit, cheese, appetizers, chips, pretzels, and other snack foods or
food items served to pair with wine;
(F) Nonalcoholic beverages;
(G) Ice, beverage coolers, and ice chests;
(H) Articles of clothing, accessories, and souvenir items imprinted with advertising, logos, slogans, trademarks, or messages related to wine or the winery’s name;
(I) Smoking or tobacco related products; and
(J) Wine literature, cookbooks, or periodicals.

(2)(A) A winery or farm winery permit holder is not authorized to sell at retail:
   (i) Distilled spirits;
   (ii) Except as otherwise provided in subsection (v), wine that is not manufactured or bottled on the licensed premises, or in the case of a farm winery permit holder, wine that was not made pursuant to subsection (o); or
   (iii) Beer.

(B) Nothing in this subsection (h) shall prohibit a winery or farm winery permit holder from holding a license pursuant to § 57-4-101, as authorized by subsection (s), and engaging in the activities permitted under such license.

(C) Nothing in this subsection (h) shall prohibit a winery or farm winery permit holder from holding a beer license for on-premises consumption and engaging in the activities permitted under such license.

(3)(A) A winery licensed under this section that satisfies the requirements of subdivision (h)(3)(B) may sell alcoholic beverages on the premises of the winery if the label of the alcoholic beverage product sold contains the name of the winery or is so intrinsically related to the property upon which the winery is located as to be identified as a product of or created for the winery.

(B) A winery exercising the rights conferred by subdivision (h)(3)(A) must satisfy the following requirements:
   (i) The winery is located on a tract or tracts of land having at least twenty-four (24) contiguous acres;
   (ii) The winery is located on property adjacent to a federal highway;
   (iii) The winery is located on property with a commercial railroad track not more than two hundred fifty feet (250') from the nearest property line;
   (iv) The winery is located on property with a structure that was originally constructed prior to 1860 as a private residence;
   (v) The winery is located on property that is leased or owned by a not-for-profit corporation exempt from federal income taxation under § 501(c)(3) of the Internal Revenue Code; and
   (vi) The winery is located on property 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 2010 federal census or any subsequent federal census.

   (i) A winery licensed under this section located in this state may sell no more than five (5) cases or sixty (60) liters of wine to any single retail customer in one (1) day. It shall be legal for any purchaser of wine from a winery licensed under this section to transport into and within this state no more than five (5) cases or sixty (60) liters of wine in one (1) day. Any wine transported pursuant
to this section must be accompanied by a bill of sale sufficiently identifying the
nature, quantity, purchaser, date and place of purchase of the wine. Bills of
sale purchased from out-of-state wineries licensed under this section must
reflect that the wine was purchased for transport into this state and that
Tennessee taxes have been paid. Any person transporting such wine in excess
of five gallons (5 gals.) shall have with the shipment a receipt or other
documentation demonstrating that the wine was purchased from a winery as
licensed in this section.

(j) Any licensee or other person who sells, furnishes, disposes of, gives or
causes to be sold, furnished, disposed of or given, any wine in this state or for
transport into this state, to any person under the age of majority as established
by § 57-4-203(b), commits a Class A misdemeanor.

(k) The commission is empowered and authorized to promulgate such rules
and regulations as may be necessary to carry out the duties of the commission
as provided in this section, including, but not limited to, procedures governing
the production, sale and transportation of wine. The commissioner of revenue
shall establish procedures governing the keeping of records for tax purposes
and the payment of taxes by a winery licensed under this section; and for any
failure to comply with the procedures, the commissioner shall notify the
commission, which is authorized to revoke or suspend the license of any
winery.

(l) It is the duty of the commissioner of agriculture to disseminate the best
information available as to the methods of cultivation of crops that may be
utilized in Tennessee for the production of wine and the methods of making
such wines. It is also the duty of the commissioner to establish reasonable
procedures requiring proper sanitary conditions about the winery and to
certify that these conditions have been met before the commission issues any
license. The commissioner shall establish reasonable procedures requiring the
process of producing wine to be carried on under proper sanitary conditions
and in a sanitary manner; and for any failure to comply with the procedures,
the commissioner shall notify the commission, which is authorized to revoke or
suspend the license of any winery.

(m)(1) Any nonprofit association organized to encourage and support grape
growing and winemaking with ten (10) or more wineries licensed under this
section as members shall be allowed to hold not more than twelve (12) wine
festivals per calendar year. Each festival shall not exceed a period of
seventy-two (72) hours.

(2) Any winery licensed under this section participating in a festival
authorized by this subsection (m) shall be allowed to transport, serve and
offer complimentary samples of their wines for tasting at the festival. The
complimentary sample size shall be restricted to a one ounce (1 oz.) serving
with only one (1) sample per person for each type of wine.

(3) Any winery licensed under this section participating in a festival
authorized by this subsection (m) shall be allowed to transport wine
produced by that winery to sell at the festival for consumption off-premises.

(4)(A) Any nonprofit association authorized by this subsection (m) to hold
a wine festival shall apply for a special occasion license as defined in
§ 57-4-102, in order for participating wineries licensed under this section
to serve complimentary samples as described in subdivision (m)(2) and to
sell wine produced by the wineries for consumption off-premises.

(B) Notwithstanding § 57-4-102(33)(A), a special occasion license is
issued for a wine festival authorized by this subsection (m) 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 (m) 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 a wine festival pursuant to this subsection (m) shall be permitted to hold the festival in any municipality or county of the state in the manner provided in subdivision (m)(5).

(5) A nonprofit association, as defined in subdivision (m)(1), is authorized to conduct a wine festival pursuant to this subsection (m) in a municipality or county of this state that has approved the sale of alcoholic beverages or has a licensed winery 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 a festival at a location and in such manner authorized by such legislative body.

(n) If any provision of this section or application of this section to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the section that can be given effect without the invalid provision or application, and to that end the provisions of this section are declared to be severable.

(o)(1) As used in this subsection (o):

(A) “Farm” means a farming operation located in Tennessee consisting of commercial vineyards, fruit orchards or fruit gardens or any combination of such farming operations;

(B) “Farm wine producer” means a farm which produces its own locally grown product from a vineyard, fruit orchard or fruit garden or any combination of such farming operations to be used in the making of wine; and

(C) “Wine” means an alcoholic beverage containing a minimum of ninety-five percent (95%) of the product of vineyards, fruit orchards or fruit gardens grown and harvested at a farm as the wine being sold by the farm wine producer.

(2) A farm wine permit may be issued as provided in this subsection (o) to a farm wine producer, upon verified, written application to the commission on the proper form authorized to be prescribed and furnished by the commission, and the application may be granted by the commission, subject to the further restrictions of this chapter, other than § 57-3-106.

(3) Each applicant for a farm wine permit 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. The permit shall not be issued until a permit fee of one hundred and fifty dollars ($150) is paid to the commission by the farm wine producer, but issuance of the permit is exempt from the requirements of § 57-3-106. The commission shall deposit collections with the state treasurer to be earmarked for and allocated to the commission for the purpose of the administration and enforcement of the duties, powers and functions of the commission.

(4) The holder of a farm wine permit may:

(A) Transport or have transported produce grown on the farm to a winery licensed pursuant to subsection (b), for the manufacture, bottling and labeling of unfortified wine from such produce;
(B) Receive such wine back from the winery manufacturing, bottling and labeling the wine for the farm wine producer;

(C) Offer on the premises of the farm single servings of its wine, with or without charge, as tastings for each wine sample; and

(D) Sell at retail on the premises of the farm sealed containers of wine made from the produce of its vineyard, orchard or fruit garden in a designated building or area.

(5) Subsections (d), (h), (i), (j), (m), (n), and (q) which apply to wineries shall also apply to farm wine permittees.

(p)(1) A winery licensed under this section is authorized to receive produce from a farm wine producer grown on the farm for the purpose of manufacturing, bottling and labeling of wine for such producer. The wine label shall indicate the name of the farm where the fruit was grown and harvested and the name of the winery manufacturing, bottling and labeling such wine.

(2) Such winery shall be responsible for the payment of the state gallonage tax imposed pursuant to § 57-3-302 and the federal alcoholic beverage excise taxes due and owing on the wine bottled by the winery prior to the bottled wine leaving the winery’s bonded premises.

(3) The winery is authorized to transport the wine from the winery back to the farm wine permit holder, notwithstanding § 57-3-107(b) or any other law to the contrary. It is lawful for common carriers to transport from the winery which manufactured, bottled and labeled such wine to the farm permit holder pursuant to an agreement or contract with a licensed winery.

(q)(1) A winery licensed under this section that has a total annual wine production of fifty thousand gallons (50,000 gals.) or less shall be authorized to obtain an additional self-distribution permit from the commission subject to the obligations imposed in this subsection (q).

(2) No self-distribution permit shall be issued to or held by a winery that has registered a distribution contract with a wholesaler licensed pursuant to § 57-3-203, if the terms of that contract include distribution rights for a county that is located, in whole or in part, within one hundred (100) miles of the licensed winery where the wine being distributed has been manufactured, produced, or bottled. Any winery holding a self-distribution permit that registers such a distribution contract with a wholesaler or whose total output in a calendar year exceeds fifty thousand gallons (50,000 gals.) shall cease self-distributing its wine under subdivision (q)(3) and shall promptly surrender the winery’s self-distribution permit.

(3) A winery seeking a self-distribution permit under this subsection (q) may distribute not more than three thousand (3,000) cases of wine manufactured, produced, or bottled on the winery’s premises to any licensee holding a license issued pursuant to chapter 4, part 1 of this title, located within one hundred (100) miles of the winery’s premises where such wine has been manufactured, produced, or bottled.

(4) A winery engaged in self-distribution under this section shall be responsible for all taxes and records which are imposed upon a wholesaler under § 57-3-203 which result from any direct sales under this subsection (q).

(5) The commission shall impose no additional fee or charge for the issuance of a self-distribution permit under this section.

(r)(1) For purposes of this subsection (r)，“satellite facility” means any facility or location other than the primary business location of a winery or
farm wine producer.

(2) Any winery or any farm wine producer licensed by this section may conduct business at any two (2) satellite facilities in any jurisdiction where it is lawful to manufacture intoxicating liquors or intoxicating drinks pursuant to § 57-2-103(c) and (d). At its satellite facilities, the winery may conduct any business that is authorized at the licensed winery, except for the manufacturing and bottling of wine. At its satellite facilities, a farm wine producer may conduct any business that is authorized at the premises of the farm wine producer.

(3)(A) Any winery licensed by this section or any farm wine producer shall obtain a satellite permit for each satellite facility utilized by the winery or farm wine producer from the commission in order to:

(i) Serve samples with or without charge;
(ii) Sell wine for consumption on or off the permitted premises; and
(iii) Sell any other products under subsections (h) and (o).

(B) In addition to the permit authorized in subdivision (r)(3)(A), any winery licensed under this section that pays taxes under § 57-3-302(a) at its licensed facility on fifty thousand gallons (50,000 gals.) or less of wine or finished wine product each calendar year or any farm wine producer licensed under this section may qualify for a satellite permit to authorize no more than three (3) such wineries, farm wine producers, or any combination thereof, to conduct business at one (1) satellite facility.

(C) Any violation of any rule or statute by a satellite facility shall be deemed to be a violation by any winery or farm winery producer that participates in a satellite facility.

(D) Any winery or farm winery producer, seeking to establish or operate a satellite facility shall disclose to the commission each winery or farm winery producer participating in the satellite facility. Any participant in a satellite facility shall provide any information requested by the commission prior to participating in the satellite facility.

(4) A satellite permit issued to a winery or farm wine producer pursuant to this subsection (r) shall only be available upon the payment of a one-time application fee to the commission of three hundred dollars ($300) per satellite location and upon the payment of an annual license fee of one hundred fifty dollars ($150).

(5)(A) Any winery or farm wine producer licensed under this section that has obtained a satellite permit and elects to charge consumers for samples may only sell such samples that are manufactured by the winery or farm wine producer.

(B) [Deleted by 2019 amendment.]

(6)(A) Wineries and farm wine producers that pay taxes under § 57-3-302(a) at their licensed facility on more than fifty thousand gallons (50,000 gals.) of wine during a calendar year and that operate a satellite facility shall obtain wine provided at their satellite facilities from a wholesaler licensed pursuant to § 57-3-203. The wholesaler may permit the winery or farm wine producer to transport wine or finished wine product from the winery or the farm to its satellite facilities; provided, that the wholesaler includes the amounts delivered in its inventory, reports depletions for purposes of tax collection, and is responsible for the payment of taxes on such depletions.

(B) Wineries and farm wine producers that pay taxes under § 57-3-302(a) at their licensed facility on fifty thousand gallons (50,000 gals.) or
less of wine or finished wine product each calendar year are not required to obtain wine provided at their satellite facilities from a wholesaler. Wineries may transport wine or finished wine product from their wineries to their satellite facilities. Wineries may transport wine made from produce from farm wine producers to the producers’ satellite facilities. Farm wine producers may transport wine from their farm to their satellite facilities.

(C) Wine and finished wine product sold for consumption on the premises at the satellite facilities are subject to the same taxation as wine sold for consumption on the premises at the winery or on the premises of the farm wine producer.

(s)(1) Any winery or farm wine producer licensed pursuant to this section may qualify for and hold a license under chapter 4 of this title as a restaurant or limited service restaurant; provided, that notwithstanding chapter 4 of this title related to restrictions or prohibitions on licensees under chapter 4 of this title, a restaurant or limited service restaurant may sell for off-premises consumption, wine manufactured pursuant to this section at such location or at any other restaurant or limited service restaurant licensed under chapter 4 of this title that is owned by the same person.

(2) Notwithstanding any law, rule, or regulation to the contrary, any winery or farm wine producer licensed under this section may serve wine manufactured by the winery or the farm wine producer for consumption on the premises of the winery or farm wine producer.

(t)(1) Except as provided in subdivision (t)(2), any sale of wine authorized by this section for consumption on the premises at the winery or on the premises of the farm wine producer shall be subject to taxation pursuant to § 57-4-301(c) in addition to any sales tax which is due. The taxes shall be paid and collected in the manner prescribed by § 57-4-301 and the rules of the department of revenue promulgated under the authority of that section.

(2) Nothing in this section authorizes the collection of taxes pursuant to § 57-4-301(c) for the sale of wine:

   (A) As samples for tasting, with or without charge, for consumption on the premises; or
   (B) At retail in sealed containers for consumption on the premises to the extent permitted under federal law.

(u) Notwithstanding the term “wine” as defined in §§ 57-3-101, 57-3-802, and 57-4-102, wineries and farm wine producers licensed under this section may label and advertise wine made from apples as cider, apple cider, or hard cider; provided, that nothing in this subsection (u) shall affect the marketing of cider products distributed as beer by wholesalers permitted under § 57-5-103.

(v)(1) Notwithstanding any other law to the contrary, a winery or farm wine permit holder may purchase or import finished wine product from another winery in this state or another state in an amount not to exceed, in the aggregate, fifty thousand gallons (50,000 gals.) per year. A winery or farm wine permit holder that purchases or imports finished wine product under this subdivision (v)(1) may sell, distribute, serve for the purposes of samples or tastings, or otherwise use or dispose of such product in any manner that the winery or farm wine permit holder is authorized to use or dispose of wine under this section that is manufactured, bottled, or produced by the winery or farm wine permit holder.
(2) [Deleted by 2019 amendment.]

(w) As used in this section, “finished wine product” means any wine product that is ready for use by an end user and that bears the label of the winery or farm wine permit holder that purchased or imported the finished wine product under subsection (v).

(x) Wholesalers utilized by wineries or farm wine producers may permit wineries and farm wine producers to transport their products for sale, which are sold on the premises of the winery, the farm wine producer, or the satellite facility; provided, that the wholesaler permitting such direct shipment shall include the amounts delivered in its inventory, report depletions for purposes of tax collection, and be responsible for the payment of taxes on such depletions.

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) [Effective until July 1, 2021.] 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;

(E) The certificate remains valid unless there is a change of ownership or location. If either of these events occurs, a new certificate must be obtained prior to renewal.

(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).

57-3-208. Certificate required — Contents — Exceptions. [Effective on July 1, 2021. See the version effective until 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) [Expired effective July 1, 2021. See the Compiler’s Notes.]

(E) The certificate remains valid unless there is a change of ownership or location. If either of these events occurs, a new certificate must be obtained prior to renewal.

(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).

57-3-213. Expiration of licenses — Renewal.

(a) Each license shall expire twelve (12) months following the date of its issuance. The commission is authorized to issue renewal licenses for all qualified persons licensed as of July 1, 1981 for a period of time greater than three (3) months but less than a year so as to distribute expiration dates throughout the year, for the year following July 1, 1981 only. The license fee or the proportionate part thereof prescribed by this chapter shall be paid in advance at the time the application for renewal is made as provided by this chapter.

(b) Each license issued pursuant to this chapter may be renewed upon
application therefor by the licensee. The renewal application shall be accompanied by the payment of the annual fee for such license. Each license shall automatically expire twelve (12) months from the date of its issuance unless the licensee has filed a renewal application and paid the annual license fee or privilege tax required by this title.

(c) The commission shall consider the application with all other evidence which it may obtain by investigation or otherwise in determining whether the license is to be renewed. The commission shall make such order, as the entire record justifies, granting or refusing the renewal application, and such order shall be effective from its date. If the license is not renewed, the applicant is entitled to the hearing and notice requirements as set out in § 57-3-214.

(d) [Deleted by 2019 amendment.]

57-3-217. Winery 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 winery direct shipper’s license under this section. Applicants for a winery 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 winery 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 winery direct shipper, subject to the limitations and requirements imposed by this section.

(c) As a condition to the issuance of a winery 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 winery 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 winery 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 winery 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 winery 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 winery direct shipper shall remit the gallonage tax as imposed by § 57-3-302.

(2) The taxes levied on sales made by a winery 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 winery 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 winery 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 winery direct shipper’s license and may accept an offer in compromise in lieu of suspension.

(5) A winery 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 winery 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 winery 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 winery 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.

57-3-704. Application requirements for server permits.

(a) Any individual may be eligible for a server permit by completing an application for such a permit on the forms provided by the commission. An applicant for a server permit must demonstrate to the commission that the applicant meets the following requirements:

(1) Within one (1) year prior to the submission of the application the applicant has successfully completed a program of alcohol awareness training for persons involved in the direct service of alcohol, wine or beer by an entity certified by the commission to have an adequate training curriculum for alcohol awareness. The training program must consist of not less than three and one-half (3 1/2) hours of alcohol awareness training. If, in the determination of the commission, a state other than Tennessee is deemed to have an adequate program of alcohol awareness training, then the successful completion of such training in that state within one (1) year prior to the submission of an application to the commission for a server permit shall satisfy the requirement of alcohol awareness training;

(2) The applicant is at least eighteen (18) years of age; and

(3) The applicant:

(A) Has not been convicted of a felony offense involving theft, dishonesty, deceit, or intoxication within the previous eight (8) years;

(B) Has not been convicted of any crime relating to the sale or dispensing of alcoholic beverages or beer, Schedules I and II controlled substances, or controlled substance analogues or any sex-related crime or embezzlement within the previous eight (8) years;

(C) Has not had a server permit or any similar permit issued by the state, any local jurisdiction, or any foreign jurisdiction revoked by any issuing authority within the previous five (5) years; and
(D) Has not had an ownership interest in any licensee or permittee, licensed or permitted pursuant to § 57-3-203, § 57-3-204, § 57-3-207, § 57-4-101 or § 57-5-103 which has had its license or permit revoked by the issuing authority within the previous eight (8) years.

(b) If an applicant does not meet the requirements of subdivision (a)(3), but is otherwise eligible for a server permit, then the applicant’s application shall be initially denied pursuant to this subsection (b). Within thirty (30) days of such initial denial, the applicant may request a hearing to be held pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5. At such hearing, the administrative law judge or hearing officer may consider any evidence the administrative law judge or hearing officer deems relevant to the matter and may, if in the administrative law judge’s or hearing officer’s judgment the principles of equity require, approve the application and grant the employee permit, notwithstanding the requirements of subdivision (a)(3).

(c)(1) If an applicant does not request a hearing pursuant to subsection (b) within the required period, then the application’s denial will be final and the applicant may not reapply for a server permit until the relevant time period described in subdivision (a)(3) has expired. If a person applies for a server permit in violation of this subdivision (c)(1), then such application shall be denied and subsection (b) shall not apply.

(2) If the administrative law judge, hearing officer, or commission denies an application pursuant to subsection (b), then the application’s denial will be final and the applicant may not reapply for a server permit or apply for an employee permit pursuant to § 57-3-703 until the relevant time period described in subdivision (a)(3) has expired. If a person applies for an employee or server permit in violation of this subdivision (c)(2), then such application shall be denied and subsection (b) or § 57-3-703(b) shall not apply.

(d) If a person is convicted of an offense described in subdivision (a)(3)(A) or (a)(3)(B) after being issued a server permit pursuant to this section, the commission may institute proceedings to revoke the person’s server permit pursuant to § 57-3-214; provided, that the administrative law judge or hearing officer may, if in the administrative law judge’s or hearing officer’s judgment the principles of equity require, refuse to revoke the person’s server permit, notwithstanding a finding that the person has been convicted of an offense described in subdivision (a)(3)(A) or (a)(3)(B). If the administrative law judge, hearing officer, or commission revokes a server permit pursuant to this subsection (d), then the applicant may not reapply for a server permit or apply for an employee permit pursuant to § 57-3-703 until the relevant time period described in subdivision (a)(3)(A) or (a)(3)(B) has expired. If a person applies for an employee or server permit in violation of this subsection (d), then such application shall be denied and subsection (b) or § 57-3-703(b) shall not apply.

(e) The commission may promulgate rules and regulations to enforce and administer this section pursuant to the Uniform Administrative Procedures Act.

(f) The commission may suspend or revoke a server permit for any violation of this title or any rule or regulation promulgated by the commission committed by the permit holder. The commission may, in lieu of suspending or revoking a server permit under this subsection (f), require the server to retake and successfully complete a program of alcohol awareness training conducted by an entity certified by the commission.
(g)(1) Any employee, representative, or agent of a permittee whose duties include verifying that a person is twenty-one (21) years of age or older for the purpose of authorizing the person access to the premises of the permittee shall, during any period in which the employee, representative, or agent is required to verify that a person is twenty-one (21) years of age or older, require each person seeking access to the premises whose physical appearance does not reasonably demonstrate an age of fifty (50) years or older to present a valid, government-issued document or other acceptable form of identification that includes the photograph and birth date of the person.

(2) The commission may impose a fine of five hundred dollars ($500) against any employee, representative, or agent of a permittee who violates subdivision (g)(1).

(3) As used in this subsection (g):
   (A) “Employee, representative, or agent” does not include a server permitted under § 57-4-203(h) and this part; and
   (B) “Permittee” means any person, business, or other entity issued a permit under chapter 4 of this title for the purpose of authorizing the sale and consumption of alcoholic beverages on the premises of the permittee.

57-3-806. Certificate to accompany application for license — Contents — Requirements for renewal of license — Limitation on location of licensed premises — Review of denial of certificate.

(a) As a condition precedent to the issuance of a license under § 57-3-803, 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. The issuance of a certificate must not be conditioned on the residency of the applicant, including, but not limited to, requiring the applicant to live within the county or municipality, or additional conditions not required by this section. The certificate remains valid unless there is a change of ownership or location. If either of these events occurs, a new certificate must be obtained prior to renewal.

(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; and
   (B) That the applicant or applicants have secured a location for the business which complies with all zoning laws adopted by the local jurisdiction, as to the location of the business.

(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 not authorized to limit the number of retail food store wine licenses issued within their jurisdictions.

(d)(1) In order to renew a retail food store wine license, the licensee must maintain a minimum of twenty percent (20%) of the licensee’s sales taxable sales from the retail sale of food and food ingredients for human consumption taxed at the rate provided in § 67-6-228(a), such percentage to be calculated on an annual basis. The licensee shall keep sales and purchase records through accounting methods that are customary or reasonable in the retail food store business.

(2) A retail food store wine licensee who fails to comply with subdivision (d)(1) in achieving the minimum required sales or in failing to keep adequate records shall have one (1) year to come into compliance. During this one-year period, the licensee shall work with the commission in creating a plan that would bring the licensee into compliance with this subsection (d).

(3) Failure to comply after the one-year period shall result in the retail food store wine license being suspended or revoked by the commission.

(4) In order to determine compliance with subdivision (d)(1), each retail licensee shall submit sales information to the commission in such form as the commission deems appropriate at the time the licensee applies for a license or upon renewal of such license. Each licensee shall provide the licensee’s sales tax registration number to the commission. The commission is authorized to verify sales information if the commission deems it necessary with the department of revenue.

(e)(1) No retail food store wine license shall be issued to a retail food store located within a shopping center or other development unless documentation is provided to the commission that the retail food store has:

(A) Not prohibited or restricted, through its lease or other agreement with the owner of the shopping center or development, the sale of wine or other alcoholic products by others at the shopping center or development; or

(B) Waived any prohibition or restriction on the sale of wine or other alcoholic products, if such prohibition or restriction is in the lease.

(2) If an applicant for a retail food store wine license is the owner of the shopping center or development, the applicant shall waive any prohibition or restriction on the sale of wine or other alcoholic products on any other entity that is located within that shopping center or development owned by the applicant. Nothing in this subsection (e) shall prevent the nonapplicant owner of a shopping center from imposing restrictions on its tenants through its leases or agreements.

(f) 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.

(g) 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.

(h) 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 subsection (f).

57-3-818. Responsible vendor training program — Report — Fees — Exceptions.

(a) The commission shall create a responsible vendor training program for retail food store wine licensees and retailers licensed pursuant to § 57-3-204 similar to the responsible vendor training program established in chapter 5, part 6 of this title.
(b) Except as provided in subsection (d), each retail food store wine licensee and retailer licensed in this state shall participate in the responsible vendor training program created under this section as a condition to having and maintaining such license.
(c) Each retail food store and retailer shall be required to annually file a report stating the number of certified clerks employed by the licensee in the twelve (12) months preceding the date of the report. The list shall include the first and last name of each clerk. The licensee shall maintain records for each clerk sufficient to verify that annual training has been completed. Training shall be a minimum of one (1) hour annually. Each retail food store and retailer shall pay a fee as follows:
   (1) 0-15 certified clerks—$150;
   (2) 16-30 certified clerks—$200;
   (3) 31-45 certified clerks—$250;
   (4) 46-60 certified clerks—$300;
   (5) 61-100 certified clerks—$350;
   (6) 101-150 certified clerks—$400;
   (7) 151-200 certified clerks—$450; and
   (8) $50.00 for each additional 50 certified clerks over 200.
(d) The commission shall not require any licensee to participate or pay fees for both the responsible vendor training program created in this section and the program established in chapter 5, part 6 of this title. Participation in either program shall be deemed sufficient compliance.
(e) This section shall not apply to employees of a retailer licensed under § 57-3-204 until July 1, 2016. Any employee of a retailer who has a valid permit under [former] § 57-3-204(c) on July 1, 2016, shall not be required to be certified pursuant to this section until that permit expires.

57-3-1101. Tennessee wine and grape board.

(a) The Tennessee wine and grape board is hereby created, referred to in this part as the “board”, for the purpose of supporting the growth of the wine industry in this state.
(b) For administrative purposes only, the board is attached to the department of agriculture.
(c) The board is composed of seven (7) members, as follows:
   (1) The commissioner of agriculture, or the commissioner’s designee;
   (2) The commissioner of tourism, or the commissioner’s designee;
(3) A Tennessee wine producer, appointed by the governor;
(4) A Tennessee grape or fruit producer, appointed by the governor;
(5) A person in higher education with a background in fermentation or viticulture, appointed by the governor; and
(6) Two (2) members who are involved, with respect to the wine industry in this state, in production, marketing, sales, journalism, or education, appointed by the governor.

(d) Members appointed under subdivisions (c)(3)-(6) serve at the pleasure of the governor.

(e) The members of the board shall receive no compensation for their service on the board, nor are the members entitled to per diem or travel expenses for the purposes of carrying out their duties under this part.

(f) The commissioner of agriculture shall call the first meeting of the board. The board shall elect its chair and other officers at the first meeting of the board and annually thereafter.

(g) For the initial appointments of members under subdivisions (c)(3)-(6), the governor shall appoint two (2) members to four-year terms, two (2) members to three-year terms, and one (1) member to a two-year term.

(h) After the initial appointments, each appointed member shall serve a term of four (4) years. Vacancies on the board must be filled in the same manner as the initial appointment.

(i) For purposes of conducting official business of the board, a quorum consists of no less than four (4) members.

(j) The board shall issue an annual report on the wine industry and viticulture in this state and on current and future activities of the board, and shall submit the report to the governor, the commissioner of finance and administration, the chair of the agriculture and natural resources committee of the house of representatives, and the chair of the energy, agriculture and natural resources committee of the senate.

57-3-1102. Use of appropriated money — Raising funds — Audit.

(a) Money appropriated for use by the board must be used to:
(1) Increase the number of wineries in this state;
(2) Improve the quality of wine produced by wineries in this state;
(3) Promote the wine industry and viticulture in this state; and
(4) Implement and maintain a wholesaler rebate program for Tennessee wineries.

(b) The board has the authority to receive gifts, donations, grants, and funds to promote its activities and support ongoing programs. Any funds raised by the board must be used in accordance with this part.

(c) Any funds received by the board shall be held by the department and accounted for separately for such use.

(d) The office of the comptroller of the treasury may audit the board as it deems necessary.

57-3-1103. Promulgation of rules by board.

The board may promulgate rules for the purpose of carrying out this part.
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.(A) 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 when 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;

(B) Notwithstanding subdivision (a)(9)(A), zoological institution as defined in § 57-4-102(41)(B) and (D), to those in attendance at the zoological institution, subject to the further provisions of this chapter other than § 57-4-103;

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
(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), or a manufacturer exercising the rights granted to it under § 57-3-202(i)(1), 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.
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) or § 57-3-202 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) “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:

<table>
<thead>
<tr>
<th>not less than</th>
<th>nor more than</th>
</tr>
</thead>
<tbody>
<tr>
<td>21,800</td>
<td>22,100</td>
</tr>
<tr>
<td>22,600</td>
<td>23,000</td>
</tr>
<tr>
<td>34,850</td>
<td>35,000</td>
</tr>
<tr>
<td>80,000</td>
<td>83,000</td>
</tr>
<tr>
<td>103,100</td>
<td>103,400</td>
</tr>
</tbody>
</table>

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 pro-
vides 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 subse-
quent 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 pro-
vides 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 equip-
ment, 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 pro-
vides 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 sched-
ules, 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 oper-
ates 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 further-
ance 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;

(I) “Community theater” also means a theater possessing each of the following characteristics:

(i) The theater opened on December 9, 1949;

(ii) The theater originally seated approximately one thousand (1,000) persons in spring-covered chairs;

(iii) The theater reopened in July of 2012, serving as a multifunctional event venue, hosting weddings, concerts, nonprofit events, movies, and musical theatre; and

(iv) The theater is located in a city with a population of not less than twenty-six thousand one hundred ninety (26,190) and not more than twenty-six thousand one hundred ninety-nine (26,199), according to the 2010 and any subsequent federal census;

(J) “Community theater” also means a theater possessing each of the following characteristics:

(i) The theater was opened in 1995;

(ii) The theater’s performance hall has seating for at least one hundred twenty (120) patrons;

(iii) The theater is used for concerts, plays, and programs of cultural, civic, and educational interest;

(iv) The theater 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 in a county having a population not less than two hundred sixty-two thousand six hundred (262,600) nor more than two hundred sixty-two thousand seven hundred (262,700), accord-
ing 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 theater 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
donring 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:

<table>
<thead>
<tr>
<th>not less than</th>
<th>nor more than</th>
</tr>
</thead>
<tbody>
<tr>
<td>143,900</td>
<td>144,000</td>
</tr>
<tr>
<td>300,000</td>
<td>400,000</td>
</tr>
<tr>
<td>700,000</td>
<td></td>
</tr>
</tbody>
</table>

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 travel-
ers 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 establish-
ment 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)(J), 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 restrictions 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;
   (B) Is located within the jurisdictional boundaries of a political subdivision which has authorized the sale of alcoholic beverages for consump-
tion 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 capa-
bility 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 reposi-
tory 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 inter-state 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 thou-
sand 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
(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
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/Keltonburg 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 square feet (5,000 sq. ft.), 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 facili-
ties, 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) 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 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. 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;

(ZZZZ) 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) camp sites;
   (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
(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 govern-
ment 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;

(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 (BBB) 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;

(CCCC)(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 square feet (640,000 sq. ft.) 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 (CCCC) 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 (CCCC); 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)(DDDDDD) 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)(DDDDDD);

(iii) Notwithstanding any provision of chapter 5 of this title to the contrary, the premises of any facility licensed under this subdivision (27)(DDDDDD) 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)(DDDDDD);

(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;

(HHHHHH)(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;
(JJJJJJ) 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;
(KKKKKK) 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;
(MMMMM) A commercially operated facility that:
   (i) Is a resort comprised of approximately four hundred sixty (460)
       acres adjacent to the Cumberland River;
   (ii) Operates two (2) eighteen-hole championship golf courses;
   (iii) Operates a restaurant that seats forty-six (46) persons;
   (iv) Is utilized as a venue for weddings and similar events with
        garden seating for up to two hundred (200) persons, banquet
        room seating for up to one hundred fifty (150) persons, and
        gallery seating for up to sixty (60) persons;
   (v) Was originally established in 1986; and
   (vi) Is located in a county with a metropolitan form of government
        and a population of not less than five hundred thousand (500,000)
        persons, according to the 2010 or any subsequent federal census;
(NNNNN) A commercially operated facility that:
   (i) Operates a restaurant with seating for approximately fifty (50)
       patrons, with an extended porch for additional seating;
   (ii) Operates an event center that serves as a venue for weddings,
        concerts, and similar events;
   (iii) Is located within one (1) mile of Dale Hollow Lake, and within
        one hundred feet (100') of the Dale Hollow Quarry;
   (iv) Is located on approximately eighty-five (85) acres; and
   (v) Is located in a county with a population of not less than seven
       thousand eight hundred fifty-one (7,851) and not more than seven
       thousand eight hundred sixty-five (7,865), according to the 2010 or
       any subsequent federal census;
(OOOOO)(i) A commercially operated facility having all of the following
   characteristics:
      (a) The facility is located on approximately twenty-two (22) acres
          of land;
      (b) The facility is located less than three (3) miles south of an
          area designated as a state park consisting of approximately nine
          hundred (900) acres that is open to the public and adjacent to a state
          forest having at least nine thousand (9,000) acres;
      (c) The facility is located within five (5) miles of Interstate 840 in a
          county with a population of not less than one hundred thirteen
          thousand nine hundred fifty (113,950) and not more than one hundred
          forty thousand (140,000), according to the 2010 federal census or any
          subsequent federal census;
      (d) The facility is approximately fifteen thousand feet (15,000 ft.)
          east of a private motor racing complex originally constructed in
          approximately 2001 with a seating capacity of more than ten thou-
sand (10,000);
(e) The facility includes a cabin, pier, bridge, amphitheater, commercial kitchen, shop, pond, hall with an adjacent courtyard, a climate-controlled event center, and a manor constructed in the 1830s having at least seven (7) guest rooms for lodging;
(f) The facility serves as a venue for weddings, meetings, conferences, and events; and
(g) The restaurant at the manor serves breakfast and dinner, and caters for events, with seating for at least forty-five (45) guests. The facility has two (2) event centers that can accommodate at least two hundred (200) guests at each center;
(ii) The premises of any facility licensed under this subdivision (27)(OOOOO) 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)(OOOOO);
(iii) Notwithstanding any provision of chapter 5 of this title to the contrary, the premises of any facility licensed under this subdivision (27)(OOOOO) 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;
(iv) The requirements of § 57-5-105(b)(1) do not apply to any facility licensed under this subdivision (27)(OOOOO); and
(v) Any facility licensed under this subdivision (27)(OOOOO) may seek an additional license as a caterer pursuant to § 57-4-102(6); (PPPPP) (i) A commercially operated facility having all of the following characteristics:
(a) Is located on Norris Lake;
(b) Has a marina with not less than one hundred seventy (170) slips;
(c) Has not less than seven (7) houses and twenty-two (22) floating houses available for rent;
(d) Has a restaurant with indoor and outdoor seating for at least one hundred seventy (170) patrons;
(e) Does not discriminate against any patron on the basis of age, gender, race, religion, or national origin; and
(f) 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; and
(ii) The premises of any facility licensed under this subdivision (27)(PPPPP) 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)(PPPPP);
(QQQQQ)(i) A commercially operated facility having all of the following characteristics:

(a) Operates a hotel with sixteen (16) guest rooms, with each floor other than the first floor equipped with a chef’s kitchen, living room with a fireplace, and dining table;

(b) Operates a catering kitchen for events on the premises;

(c) Has event space of over eight hundred square feet (800 sq. ft.) located on the first and fourth floors;

(d) Is a venue for weddings, dinner parties, business retreats, reunions, and similar events; and

(e) Is located in a city with a metropolitan form of government and a population of not less than five hundred thousand (500,000), according to the 2010 or any subsequent federal census; and

(ii) The premises of any facility licensed under this subdivision (27)(QQQQQ) 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 are covered under one (1) license issued under this subdivision (27)(QQQQQ);

(RRRRR)(i) A commercially operated facility that:

(a) Is an event and music venue that holds concerts and hosts a farmers market;

(b) Is located in a building built in the early 1900s by David Hugh Corlette;

(c) Contains a specialty grocery store and offers fresh food service, with seating for approximately eighteen (18) patrons;

(d) Began operating in August of 2018;

(e) Has approximately three thousand three hundred square feet (3,300 sq. ft.) of commercial floor space;

(f) Sits adjacent to Horton Highway;

(g) Is within five hundred feet (500') of a community center and artsitorium; and

(h) Is located in a county with 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 and any subsequent federal census; and

(ii) The premises of a facility licensed under this subdivision (27)(RRRRR) 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;

(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 national historic landmark centers around a historic public street or right-of-way;

(iv) Such a public street or right-of-way is closed to motor vehicular traffic, whether permanently or on a regular basis; and

(v) But only to the extent that such premises are located and fronting upon such historic street and not located on or fronting upon another
street or right-of-way within such national historic landmark; 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. Within the premises as defined in this subdivision (28)(A), and subject to the municipality’s right of ownership and control and any conditions, rules, or regulations imposed by the city or its designee or by law, alcoholic beverages may also be served to customers seated at tables and chairs contiguous to the outside front wall of a licensee’s building;

(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, or a manufacturer exercising the rights granted to it under § 57-3-202(i)(1); 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) In counties with a population of more than three hundred nineteen thousand six hundred twenty-five (319,625), according to the 1980 census, but excluding those counties having a metropolitan form of government:

(i) Within a national historic landmark district or urban park center, as defined by this section, or within an easement area granted to a municipality for commercial recreation and commercial recreation facilities from the Tennessee Valley authority in the Fort Loudoun Reservoir:

(a) 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 restau-
rant permit to serve liquor by the drink; and

(b) Notwithstanding any law to the contrary, restaurant licensees may enter into leases with municipal landowners in which gross sales, which may include or exclude liquor sales, are considered in the determination of a percentage rent or other rent calculation provision; and

(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);

(L) “Restaurant” also means a facility that:
(i) Began operating on September 5, 2018;
(ii) Has a seating capacity for patrons of approximately one hundred forty (140);
(iii) Is located on Hixson Pike within one thousand five hundred feet (1,500') of Dallas Bay on the Tennessee River and within six thousand feet (6,000') of Chester Frost Park;
(iv) Is approximately two thousand square feet (2,000 sq. ft.); and
(v) Is 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;

(31)(A) “Retirement center” means a facility that contains each of the following characteristics:
(i) 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;
(ii) 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;
(iii) 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;
   (iv) The center will have a club house that houses a health club, game
   room, lounge and a dining facility;
   (v) 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
   (vi) The center does not discriminate against any patron on the basis
   of gender, race, religion or national origin;
(B) “Retirement center” also means a facility that contains each of the
following characteristics:
   (i) The center is located in a county having a population of not less
   than one hundred fifty-six thousand eight hundred (156,800) nor more
   than one hundred fifty-six thousand nine hundred (156,900), according
   to the 2010 federal census or any subsequent federal census;
   (ii) The center will consist of recreational areas, a fitness center,
   a dining room with seating for at least one hundred fifty (150) people and
   a lounge area, and at least one hundred (100) individual living unit
   apartments;
   (iii) The center will have a facility of at least one hundred five
   thousand square feet (105,000 sq. ft.) and is located on approximately
   eight (8) acres near the corner of Fort Henry Drive and Holston Hills
   Drive; and
   (iv) The center's lounge area 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 room and other
   areas within the center's property, for the center's residents and guests
   only, mixed alcoholic drinks, wine, and beer;
(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 develop-
   ment 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 main-
tains 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 applica-
tion 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 contain-
ers for consumption on or off the premises notwithstanding the restric-
tions 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
can 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 follow-
ing 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, Na-
tional 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 follow-
ing 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;

(E) “Sports authority facility” also means any facility on the campus of a public institution of higher education that is designed and used for sporting events sanctioned by the institution;

(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 subse-
quent 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 use 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);
(Q)(i) “Urban park center” also includes a facility possessing each of the following characteristics:

(a) Is owned, operated, or leased by a municipal or county government, or any agency or commission thereof;

(b) Has an outdoor fixed-structure stage utilized as a performance venue;

(c) Provides or leases facilities for concerts, plays, and programs of cultural, civic, and educational interest; and

(d) Is located in 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, and that has a population of not less than four thousand fifty (4,050) and not more than four thousand fifty-nine (4,059), according to the 2010 federal census and any subsequent federal census; and

(ii) This subdivision (39)(Q) only applies in a city with a population of not less than four thousand fifty (4,050) and not more than four thousand fifty-nine (4,059), according to the 2010 federal census and any subsequent federal census upon the adoption of an ordinance by a two-thirds (2/3) vote of its governing body;

(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.

57-4-106. Authority to serve or sell high alcohol content beer if authorized to serve or sell wine.

If a premises is authorized pursuant to this chapter to serve or sell wine only, the premises shall also be authorized to serve or sell high alcohol content beer, as defined in § 57-3-101.

57-4-110. Interest of licensed manufacturer in licensed establishment.

(a) Notwithstanding any law or rule to the contrary, a manufacturer licensed under § 57-3-202 may have a direct or indirect interest in any establishment licensed pursuant to this part; provided, that such interest is held in an irrevocable trust by an independent trustee.

(b) [Deleted by 2019 amendment.]

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, 2018, until June 30, 2019, the proceeds received by a local political subdivision pursuant to subdivision (a)(2) must be distributed by the local political subdivision in the following manner:

(A) One-half (½) of the proceeds must 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 to the city recorder, who 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 must 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 must 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, 2019, until June 30, 2020, the proceeds received by a local
political subdivision pursuant to subdivision (a)(2) must be distributed by
the local political subdivision in the following manner:

(A) One-half (½) of the proceeds must 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 2018-2019 average daily
attendance (ADA) of the students in the city school system is to the
2018-2019 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 2018-2019 ADA of the
students in the city school system is to the 2018-2019 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 must 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 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.
(B) As used in subdivision (b)(2), “average daily attendance” or “ADA” means:
(i) If the school system was in operation during the 2018-2019 school year, the aggregate days’ attendance of the school system during the 2018-2019 school year divided by the number of days school was in session during the 2018-2019 school year; or
(ii) If the school system was not in operation during the 2018-2019 school year, then the estimated expected attendance of the school system for the 2019-2020 school year as reported to the department of education.
(c) After July 1, 2020, 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 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 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:

<table>
<thead>
<tr>
<th>not less than</th>
<th>nor more than</th>
</tr>
</thead>
<tbody>
<tr>
<td>336,400</td>
<td>336,500</td>
</tr>
<tr>
<td>98,900</td>
<td>99,000</td>
</tr>
</tbody>
</table>

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 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.

(f) Notwithstanding any law to the contrary, no city or county shall deny the issuance or renewal of a permit upon the basis that the lease between the business and its municipal landlord includes a provision whereby gross sales, which may include or exclude liquor sales, are considered in the determination of a percentage rent or other rent calculation provision.

57-5-606. Qualification for responsible vendor status.

In order to qualify for responsible vendor status, the vendor shall comply with the following requirements:

(1)(A) Require each and every clerk to successfully complete a responsible vendor training program within sixty-one (61) days of commencing employment, whether the employment is for the first time, after rehiring, or for a different responsible vendor. Responsible vendors shall, prior to employing a clerk, verify with the commission that the clerk is eligible for certification;

(B) Each clerk shall successfully complete the responsible vendor training program and after doing so, receive a certificate of completion from the program trainer in a format that is in accordance with rules promulgated by the commission. The training program shall be a minimum of one (1) hour of instruction. A clerk shall not be authorized to sell beer for off-premise consumption, unless the clerk has successfully completed the responsible vendor training program and has received a certificate of completion or is within sixty-one (61) days of the date of hire. The original certificate of completion shall be maintained by the responsible vendor employing the clerk. The responsible vendor shall provide the commission with the names and other identifying information as required by the commission, of certified clerks within twenty-one (21) days of the date of training; and

(C) Each clerk shall be issued a name badge by the responsible vendor employer. The name badge must have the clerk's first name clearly visible. Clerks shall wear this name badge at all times during which they are on duty;

(2) Provide instruction for its employees approved by the commission, which shall include the following:

(A) Laws regarding the sale of beer for off-premise consumption;

(B) Methods of recognizing and dealing with underage customers; and

(C) Procedures for refusing to sell beer to underage customers and for dealing with intoxicated customers;

(3) Require all certified clerks to attend at least one (1) annual meeting, at which the responsible vendor shall disseminate updated information prescribed by the commission and the responsible vendor policies and procedures related thereto. In order for the clerk's certification to remain valid, the clerk must attend an annual meeting each year following the clerk's original certification; and the responsible vendor must keep records thereof. Responsible vendors shall notify the commission if a certified clerk does not
attend an annual meeting as required by this section. The commission may, at any time, require responsible vendors to disseminate to certified clerks information from the commission that is related to changes in state law or commission rules; and

(4) Maintain employment and all responsible vendor training records of all clerks.

58-2-111. Possession of mobile telephone by person being housed in camp or shelter.

Notwithstanding any law to the contrary, a person being housed in a camp or shelter organized or maintained by the federal or Tennessee emergency management agency or a local emergency management agency, or pursuant to an action taken by such agency, is authorized to possess a mobile telephone.


This part shall be known and may be cited as the “Facilitating Business Rapid Response to State-Declared Disaster Act.”


As used in this part:

(1) “Critical infrastructure” means real and personal property and equipment, including, but not limited to, buildings, offices, lines, poles, pipes, structures, and equipment that:

(A) Is owned or used by or for telecommunications service networks, mobile telecommunications service networks, internet access service networks, video programming service networks, direct-to-home satellite television programming service facilities, electric generation, transmission and distribution systems, gas distribution systems, fuel supply systems, including such systems for gasoline, diesel, biodiesel, heating fuel, jet fuel, and propane, water pipelines, and related support facilities; and

(B) Services multiple customers or citizens;

(2) “Disaster” has the same meaning as defined in § 58-2-101;

(3) “Disaster or emergency related work” means:

(A) Repairing, renovating, installing, building, and rendering services or other business activities that relate to critical infrastructure that has been damaged, impaired, or destroyed during a disaster or emergency; and

(B) Any activities conducted in good faith before a potential disaster or emergency to prepare for the provision of the work described in subdivision (3)(A);

(4) “Disaster response period” means the period that begins ten (10) days before the date of the earliest event establishing a disaster or emergency and that ends one hundred twenty (120) days thereafter, or such later date as may be set by the governor or president of the United States;

(5) “Emergency” has the same meaning as defined in § 58-2-101;

(6) “Licensed business” means a business entity that is currently licensed to do business in this state;

(7) “Responding out-of-state business” means a business entity that, except for work related to a disaster or emergency, has no presence in this state, conducts no business in this state, and whose services are requested by
a licensed business or by this state or a local government for purposes of performing disaster or emergency related work in this state, including, but not limited to, a business entity that is affiliated with a licensed business solely through common ownership and otherwise meets this definition of a responding out-of-state business; and

(8) “Responding out-of-state employee” means an employee of a responding out-of-state business or licensed business who does not work in this state, except for disaster or emergency related work.

58-2-203. Payment of taxes and fees by responding out-of-state businesses and employees — Jurisdiction.

(a) Notwithstanding any law to the contrary, responding out-of-state businesses and responding out-of-state employees shall pay the following transaction taxes and fees, when the tax or fee is determined, collected, remitted, and reported by others duly registered and required to collect such taxes and fees:

   (1) Fuel excise taxes imposed under title 67, chapter 3;
   (2) State and local sales and use taxes imposed under title 67, chapter 6;
   (3) Local hotel occupancy taxes imposed under title 67, chapter 4, part 14;
   (4) Taxes imposed on the purchase or consumption of alcoholic beverages and beer under title 57; and
   (5) Any other transaction tax or fee assessed, collected, or imposed on specific transactions or activities in the usual course of business without imposing any obligation on a responding out-of-state business or responding out-of-state employee to register, file a return, or otherwise self-report and remit the tax or fee due.

(b) Notwithstanding any law to the contrary, tangible personal property of a responding out-of-state business, upon being installed or affixed to real property within this state, sold or transferred to in-state persons, or otherwise coming to rest and acquiring situs within this state, is subject to use tax, ad valorem tax, and any other tax imposed directly or indirectly on such property.

(c) This part does not limit or otherwise alter or amend the power of a court to exercise personal or in rem jurisdiction over responding out-of-state businesses, responding out-of-state employees, or their property; provided, that such jurisdiction must not be used as a basis to impose a tax, fee, or other obligation contrary to this part.

(d) This part does not confer immunity from criminal prosecution in a court of this state.

58-2-204. Residency or presence in state not established — Broad interpretation of protections.

(a) A responding out-of-state employee:

   (1) Must not be considered to have established residency or a presence in this state that would require the employee or the employee’s employer to administer, file, or pay taxes or fees or to be subjected to pay any other state or local tax or fee, except as expressly provided for in this part; and
   (2) When holding a license, certificate, or other permit issued by the state of the employee’s permanent residence or any other state as evidence that the employee is qualified to perform professional, mechanical, or other services, must be deemed licensed, certified, or permitted by this state to render disaster or emergency related work involving such professional,
mechanical, or other services and must not be required to register, report, or pay any tax or fee related to such licensure, certification, or permitting in this state.

(b) A responding out-of-state business does not establish a level of presence during a disaster response period that would require the business to register, file, or remit state or local taxes or that would subject that business to any state licensing or registration requirements.

(c) Except as otherwise provided in this part, the protections afforded by this section must be interpreted broadly to relieve a responding out-of-state business and a responding out-of-state employee from any obligation to provide, require, or remit documentation, registration, taxes, fees, or other submissions or filings with this state or its political subdivisions, including, but not limited to, the following:

1. Unemployment insurance;
2. State and local occupational licensing fees;
3. Registration for state and local sales and use tax, imposed by title 67, chapter 6, or any requirement to collect tax, file returns, or otherwise self-report or remit any sales or use tax to this state as a result of or in relation to any disaster or emergency related work;
4. Any registration or regulation of businesses or public utilities by the secretary of state, public utilities commission, or any other agency or instrumentality of this state; and
5. The franchise and excise tax imposed by title 67, chapter 4, parts 20 and 21, the business tax imposed by title 67, chapter 4, part 7, and any other state or local tax on or measured by, in whole or in part, net or gross income or receipts, so that all disaster or emergency related work of the responding out-of-state business that is conducted in this state must be disregarded with respect to any filing requirements for such tax, including the filing required for a unitary or combined group of which the responding out-of-state business may be a part. If an affiliate of a responding out-of-state business is required to file a combined or consolidated return, the responding out-of-state business’s income, revenue, or receipts from disaster or emergency related work in this state must not be sourced to this state and must not otherwise impact or increase the amount of income, revenue, or receipts apportioned to this state.


After a disaster response period, if a responding out-of-state business or a responding out-of-state employee remains in this state:

1. Such business or individual loses the protections of this part; and
2. For purposes of computing franchise and excise tax imposed by title 67, chapter 4, parts 20 and 21, and the business tax imposed by title 67, chapter 4, part 7, the computation must include in the tax base net or gross income or receipts from activities transacted during the disaster response period.

58-7-103. Powers and duties of board.

(a) The board shall elect a chair from among its members. The chair shall be a citizen of the state and an honorably discharged veteran of the United States armed forces. The chair shall serve a two-year term. A chair may be reelected; provided, that no person shall serve as chair for more than two (2) consecutive
(b) The board shall also select other officers as the board finds necessary and appropriate. The positions are for a period of one (1) year, but members may be reelected to serve additional terms; provided, that no person shall serve for more than two (2) consecutive terms.

(c) The board, pursuant to applicable state and federal law, is hereby vested and charged with those powers and duties necessary and proper to enable it to fully and effectively carry out this chapter, including, but not limited to:

1. The authority to determine the location of the Tennessee state veterans’ homes. In selecting the sites, preference shall be given to publicly owned land. Land for the sites may be purchased only if suitable publicly owned land is not available;
2. The duty to adopt written policies and procedures to govern its internal operations;
3. The authority to acquire, in the name of the board, real or personal property or any interest therein, including rights or easements, on either a temporary or long-term basis by gift, purchase, transfer, foreclosure, lease or otherwise;
4. The authority to hold, sell, assign, lease, rent, encumber, mortgage or otherwise dispose of any real or personal property, or any interest therein, or mortgage interest owned by it or in its control, custody or possession and release or relinquish any right, title, claim, lien, interest, easement or demand however acquired, including threat of foreclosure;
5. The authority to incur debts, to borrow money, to issue debt instruments and to provide for the rights of the holders thereof;
6. The authority to procure insurance against any loss in connection with its property and other assets in amounts and from insurers which it deems desirable;
7. The authority to have employees authorized by the Tennessee state veterans’ homes board solicit and receive bequests and donations for:
   A. The improvement of the general comfort and welfare of the members of the home or homes;
   B. The future construction of a new home or homes;
8. The authority to seek advice from the United Tennessee Veterans’ Association (UTVA);
9. The authority to seek assistance from the commissioner of finance and administration, the comptroller of the treasury, the state treasurer, and other state agencies;
10. Do other acts necessary or convenient to exercise the powers granted or reasonably implied in this section;
11. The authority to provide guidance to future administrators at state veterans’ nursing homes based upon the collective institutional memory of the state veterans’ homes board; and
12. The authority to notify members of the general assembly and appropriate persons in the executive branch of potential problems in state veterans’ nursing homes.

(a) Notwithstanding §§ 63-2-101(b), 68-11-1502 and 68-11-1503, and regardless of any express or implied contracts, agreements or covenants of confidentiality based upon those sections, health care providers shall make their medical records available for inspection and copying by the department of health or its representatives, designees or employees based on the following conditions:

(1) Upon the presentation of a written authorization for release signed by the patient or the patient’s legal representative; or

(2) Upon a written request made by the department of health investigators, inspectors or surveyors who are performing authorized investigations, inspections or surveys of facilities or individuals licensed pursuant to this title or title 68 based on a complaint filed with the department or an inspection or survey required by state or federal law. The written request shall contain the nature of the violation, the applicable laws and rules that may have been violated and the specific date by which production of the records is required. The written request shall be made in good faith and shall be related to the complaint, inspection or survey.

(b) This section shall not apply to records that are made statutorily privileged, which shall require for their production a release that specifically identifies the privilege, contains a statement that the privilege is waived and that is signed by the patient or the patient’s legal representative.

(c) Any health care provider or representative of any health care provider who furnishes records to a duly authorized representative, designee or employee of the department of health shall be immune from liability to any patient, individual or organization for furnishing such information, data, reports or records or for damages resulting from any decision, opinion, action and proceedings rendered, entered or acted upon by the department of health, if the information or other records or documents provided were provided or created in good faith and without malice and on the basis of facts reasonably
known or reasonably believed to exist.

    (d) In the event that a health care provider does not comply with the written request for medical records issued in compliance with subdivision (a)(2), the state may file a petition in the chancery court of Davidson County to compel production of the medical records within fifteen (15) days following the date specified for the production of the medical records contained in the written request.

    (e) A health care provider’s willful disregard of the request for medical records pursuant to this section is grounds for disciplinary action by the licensing board that regulates the health care provider.

    (f) The following materials, documents, and other matters related to, or compiled or created pursuant to, an investigation conducted by or on behalf of the department are confidential and not a public record or subject to subpoena, except for subpoenas from law enforcement agencies, before formal disciplinary charges are filed against the provider:

        (1) Allegations against the health care provider;
        (2) Complainant’s identifying information;
        (3) Identifying information of a witness who requests anonymity;
        (4) Patient’s identifying information;
        (5) Patient’s medical record; and
        (6) Any report or documents prepared by or on behalf of the department as a part of an investigation.

    (g) After the filing of formal disciplinary charges against the provider, only the materials and documents upon which the charges are based may be disclosed as a public record, but not the complainant’s identifying information, identifying information of a witness who requests anonymity, patient’s identifying information, patient’s medical record or investigator’s report.

    (h) Department annual health care facility and pharmacy survey inspection reports shall be available to the public pursuant to subsections (f) and (g).

    (i) Pursuant to § 68-1-104, the commissioner or the commissioner’s designee, upon request, shall obtain access to records maintained by any facility, entity, or individual licensed under this title. Access shall be given in the most efficient and expedient means possible, including remote electronic access, to facilitate investigations and inquiries while responding to an immediate threat to the public health, welfare, or general good. Electronic access shall be limited to the minimum necessary for the duration of the outbreak, event, or time in which the public health is under immediate threat as determined by the commissioner.

    (j) This section does not modify or limit the prehearing discovery provisions set forth in the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

    (k) As used in this section:

        (1) “Health care provider” means health care professionals, establishments or facilities licensed, registered, certified or permitted pursuant to this title or title 68 and regulated either under the authority of the department of health or any agency, board, council or committee attached to the department; and

        (2) “Medical record” means any and all documents maintained by a health care provider relating to a patient’s diagnosis, care and treatment, including, but not limited to, notes, reports, memos, emails, facsimile transmissions,
laboratory tests, billing documents and medication orders.

(l) The commissioner of health is authorized to promulgate rules and regulations to effectuate this part.


(a) This section shall be known and may be cited as the “Kenneth and Madge Tullis, MD, Suicide Prevention Training Act.”

(b) As used in this section:

(1) “Board” means a health-related board created in this title or title 68 and includes the:

(A) Board for professional counselors, marital and family therapists, and clinical pastoral therapists, created by § 63-22-101;
(B) Board of social work licensure, created by § 63-23-101;
(C) Board of alcohol and drug abuse counselors, created by § 68-24-601; and
(D) Board of occupational therapy, created by § 63-13-216; and

(2) “Training program” means an empirically supported training program that covers the following elements:

(A) Suicide prevention;
(B) Suicide assessment and screening;
(C) Suicide treatment;
(D) Suicide management; and
(E) Suicide postvention.

(c) The department of mental health and substance abuse services shall:

(1) Develop, in collaboration with the Tennessee Suicide Prevention Network, a model list of training programs;
(2) When developing the model list, consider training programs of at least two (2) hours in length that are based on expert consensus and adhere to high standards of suicide prevention;
(3) When developing the model list, consult with the boards; public and private institutions of higher education; experts in suicide prevention, assessment, treatment, management, and postvention; and affected professional associations; and
(4) Report, in collaboration with the Tennessee Suicide Prevention Network, the model list of training programs to the department of health no later than December 15, 2017.

(d) A board may approve a training program that excludes an element described in the definition of training program if the element is inappropriate for the profession in question or inappropriate for the level of licensure or credentialing of that profession based on the profession’s scope of practice.

(e) Beginning January 1, 2020, each of the following professionals certified or licensed under this title or title 68 shall, at least once every four (4) years, complete a training program that is approved by rule by the respective boards:

(1) A social worker licensed under chapter 23 of this title;
(2) A marriage and family therapist, professional counselor, or pastoral counselor certified or licensed under chapter 22 of this title;
(3) An alcohol and drug abuse counselor certified under title 68, chapter 24; and
(4) An occupational therapist licensed under chapter 13 of this title.

(f) A professional listed in subsection (e) applying for initial licensure or...
certification on or after January 1, 2020, is not required to complete the training program required by this section for two (2) years after initial licensure or certification if the professional can demonstrate successful completion of a two-hour academic training program that meets criteria established by the profession’s board and that was completed no more than two (2) years prior to the application for initial licensure or certification.

(g) The hours spent completing the training program under this section count toward meeting any applicable continuing education requirements for each profession.

(h) Nothing in this section expands or limits the scope of practice of any profession regulated under this title or title 68.


(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) All written, printed, or electronic prescription orders for a Schedule II controlled substance must contain all information otherwise required by law. The healthcare prescriber must sign the written, printed, or electronic prescription order on the day it is issued. Nothing in this section prevents a healthcare prescriber from issuing a verbal prescription order.

(c) Subject to subsection (d), on or after January 1, 2021, any prescription for a Schedule II, III, IV, or V controlled substance issued by a prescriber who is authorized by law to prescribe the drug must 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 must be included on electronic prescriptions issued by an advance practice registered nurse or physician assistant.

(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.

63-1-163. 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 must occur at the pharmacy that initially dispensed the partial fill. Any subsequent fill must be filled within six (6) months from issuance of the original prescription, unless federal law requires it to be filled within a shorter timeframe.

(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)(1) [Deleted by 2019 amendment.]

(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)(1) [Deleted by 2019 amendment.]

(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.

(f) By January 1, 2021, all pharmacy dispensing software vendors operating in this state shall update their dispensing software systems to allow for partial filling of controlled substances pursuant to this section.

63-1-164. Restrictions and limitations on treating patient with opioids. [Effective until July 1, 2023.]

(a) As used in this section:

(1) “Alternative treatments” includes, but is not limited to, treatments such as chiropractic care, physical therapy, acupuncture, and other such
treatments that relieve pain without the use of opioids;

(2) “Encounter” means a single visit where an opioid is administered or an opioid prescription is issued or dispensed;

(3) “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;

(4) “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;

(5)(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)(5)(A) limits other requirements imposed on healthcare practitioners by law or applicable licensing authority;

(6) “Morphine milligram equivalent dose” means the morphine milligram equivalent calculation for the amount of a prescribed opioid, multiplied by the days of treatment;

(7) “Palliative care” means specialized treatment for patients facing serious illness, which focuses on providing relief of suffering through a multidisciplinary approach in order to maximize quality of life for the patient. As used in this subdivision (a)(7), “serious illness” means a health condition that carries a high risk of mortality and negatively impacts a patient’s daily bodily functions; and

(8) “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 one hundred eighty (180) morphine milligram equivalent dose. A healthcare practitioner shall not be required to include an ICD-10 code on any prescription for an opioid of a three-day supply or less and an opioid dosage of less than one hundred eighty (180) morphine milligram equivalent.

(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) Notwithstanding subdivision (c)(1), where the treatment provided by a healthcare practitioner is prescribing an opioid, the healthcare practitioner may authorize the prescription to be dispensed by partial fill by placing “partial fill” or “PF” on the prescription.

(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 millgram 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 thirty-day supply of an opioid and with a dosage that does not exceed a total of a twelve hundred (1200) 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 cancer treatment, undergoing palliative care treatment, or 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 and for whom 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. As used in this subdivision (e)(9), “severe burn” means an injury sustained from thermal or chemical causes resulting in second degree or third degree burns. As used in this subdivision (e)(9), “major physical trauma” means a serious injury sustained due to blunt or penetrating force which results in serious blood loss, fracture, significant temporary or permanent impairment, or disability.

(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.

(h) This section does not apply to opioids approved by the food and drug administration to treat upper respiratory symptoms or cough. However, a healthcare practitioner shall not treat a patient with more than a fourteen-day supply of such an opioid.

63-1-165. [Repealed.]

63-1-166. Acceptance of barter as payment for healthcare services.

(a) Notwithstanding any law to the contrary, a healthcare professional may accept goods or services as payment in a direct exchange of barter for healthcare services provided by the healthcare professional if the patient to whom the healthcare services are provided is not covered by health insurance coverage, as defined by § 56-7-109. A healthcare professional who accepts barter as payment in accordance with this section shall annually submit a copy of the relevant federal tax form disclosing the healthcare professional’s income from barter to the healthcare professional’s licensing board. This section does not apply to any healthcare services provided at a pain management clinic as defined in § 63-1-301.

(b) For purposes of this section, “healthcare professional” means a physician or other healthcare practitioner licensed, registered, accredited, or certified to perform specified healthcare services pursuant to this title or title 68 and regulated under the authority of the department of health or any agency, board, council, or committee attached to the department.

63-1-167. Exemption from licensing requirements for medical professionals participating in federal Innovative Readiness Training programs.

(a) Notwithstanding any requirement for the licensure of a medical professional by a health related board listed in § 68-1-101, a medical professional who has a current license to practice from another state, commonwealth, territory, or the District of Columbia is exempt from the licensure requirements of such boards, if:

(1) The medical professional is an active or reserve member of the armed forces of the United States, a member of the national guard, a civilian
employee of the United States department of defense, an authorized personal services contractor under 10 U.S.C. § 1091, or a healthcare professional otherwise authorized by the department of defense; and

(2) The medical professional is engaged in the practice of a medical profession listed in § 68-1-101 through a program in partnership with the federal Innovative Readiness Training.

(b) The exemption provided by this section only applies while:

(1) The medical professional’s practice is required by the program pursuant to military orders; and

(2) The services provided by the medical professional are within the scope of practice for the individual’s respective profession in this state.

c) This section does not permit a medical professional exempt by this section to engage in the practice of a medical profession listed in § 68-1-101, except as part of federal Innovative Readiness Training as described in this section.

(d) The respective health related board may promulgate rules to effectuate this section. The rules must be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.


(a) As used in this part:

(1) “Commissioner” means the commissioner of health;

(2) “Pain clinic guidelines” means systematically developed standards to assist healthcare providers and pain clinic certificate holders in making decisions concerning the appropriate medical care for chronic nonmalignant pain treatment, as defined in § 63-1-301; and

(3) “Treatment guidelines” means systematically developed statements to assist healthcare providers in making patient decisions concerning appropriate medical care for specific clinical circumstances and settings.

(b) By January 1, 2016, the commissioner shall develop recommended treatment guidelines for prescribing opioids that can be used by prescribers in this state as a guide for caring for patients. This subsection (b) shall not apply to veterinarians.

(c) By January 1, 2017, the commissioner shall develop recommended pain clinic standards for the operation of a pain management clinic, as defined in § 63-1-301, that can be used by certified pain clinics in this state as a guide for operating a pain clinic. This subsection (c) shall not apply to veterinarians.

(d) By January 1, 2020, the commissioner shall:

(1) Study instances when co-prescribing of naloxone with an opioid is beneficial and publish the results to each prescribing board that licenses healthcare professionals who can legally prescribe controlled substances and to the board of pharmacy; and

(2) Include the findings in the treatment guidelines for prescribing opioids developed pursuant to subsection (b).

(e) The commissioner shall review treatment guidelines and the pain clinic guidelines by September 30 of each year and shall cause these guidelines to be
posted on the department’s website.

(f) The treatment guidelines shall be submitted to each prescribing board that licenses health professionals who can legally prescribe controlled substances and to the board of pharmacy. Each board shall be charged with reviewing the treatment guidelines and determining how the treatment guidelines should be used by that board’s licensees.

(g) The pain clinic guidelines shall be submitted to each board that licenses individuals eligible to hold a pain clinic certificate for review and concurrence.

(h) Each board shall notify all of its licensees through routine bulletins or newsletters of the existence of the guidelines and standards.

63-3-128. [Repealed.]

63-6-204. “Practice of medicine” defined — Construction.

(a)(1) Any person shall be regarded as practicing medicine within the meaning of this chapter who treats, or professes to diagnose, treat, operates on or prescribes for any physical ailment or any physical injury to or deformity of another.

(2) Nothing in this section shall be construed to apply to the administration of domestic or family remedies in cases of emergency or to the laws regulating the practice of dentistry.

(3) This chapter shall not apply to surgeons of the United States army, navy, air force, or marine hospital service regardless of the hospital or practice site; provided, that the surgeon’s practice is part of the surgeon’s authorized military service or training. This chapter shall also not apply to any registered physician or surgeon of other states when called in consultation by a registered physician of this state, or to midwives, veterinary surgeons, osteopathic physicians, or chiropractors not giving or using medicine in their practice, or to opticians, optometrists, chiropodists, or Christian Scientists.

(b) Nothing in this chapter shall be so construed as to prohibit service rendered by a physician assistant, registered nurse, a licensed practical nurse, or a pharmacist pursuant to a collaborative pharmacy practice agreement, if such service is rendered under the supervision, control and responsibility of a licensed physician or to prohibit the provision of anesthesiology services in licensed health care facilities by a dentist licensed in this state who completed a residency program in anesthesiology at an accredited medical school in years 1963 through 1977.

(c) Nothing in this section shall be construed to prohibit a person, corporation, organization or other entity from employing a physician to treat only the entity’s full-time, part-time and contract employees, the entity’s retirees and dependents of the entity’s employees or retirees; provided, however, that the employment relationship between the physician and the person, corporation, organization or other entity is evidenced by a written contract, job description or documentation, containing language which does not restrict the physician from exercising independent medical judgment in diagnosing and treating patients. Under this section, such person, corporation, organization or other entity shall not be deemed to be engaged in the practice of medicine.

(d) Nothing in this section shall be construed to prohibit a community mental health center as defined in § 33-1-101 from employing a physician;
provided, that the employment relationship between the physician and the community mental health center is evidenced by a written contract, job description or documentation, containing language which does not restrict the physician from exercising independent medical judgment in diagnosing and treating patients; provided, for the purposes of this subsection (d), “physician” does not include an anesthesiologist, an emergency department physician, a pathologist or a radiologist.

(e)(1) Nothing in this section shall be construed to prohibit a federally qualified health center from employing a physician; provided, that the employment relationship between the physician and the federally qualified health center is evidenced by a written contract, job description or documentation, containing language that does not restrict the physician from exercising independent medical judgment in diagnosing and treating patients.

(2) For the purposes of this subsection (e), the term “federally qualified health center” means such entities as defined under §§ 1861(aa) and 1905 of the federal Social Security Act (42 U.S.C. §§ 1395x and 1396d, respectively).

(3) For the purposes of this subsection (e), physician does not include an anesthesiologist, an emergency department physician, a pathologist or a radiologist.

(f)(1) Notwithstanding this section, nothing shall prohibit a hospital licensed under title 68, chapter 11, or title 33, chapter 2, or an affiliate of a hospital, from employing licensed physicians other than radiologists, anesthesiologists, pathologists, or emergency physicians, to provide medical services, subject to the following conditions:

(A) Employing entities shall not restrict or interfere with medically appropriate diagnostic or treatment decisions;

(B) Employing entities shall not restrict or interfere with physician referral decisions unless:

(i) The physician so employed has agreed in writing to the specific restrictions at the time that the contract is executed;

(ii) The restriction does not, in the reasonable medical judgment of the physician, adversely affect the health or welfare of the patient; and

(iii) The employing entity discloses any such restrictions to the patient; and

(C) In the event that there is any dispute relating to subdivision (f)(1)(A) or (B), the employing entity shall have the burden of proof.

(2) Employing entities shall not restrict the employed physician’s right to practice medicine upon the termination or conclusion of the employment relationship, except as follows:

(A) For physicians from whom the employing entity has made a bona fide purchase of the physician’s practice, the employing entity may impose reasonable geographic restrictions upon the employed physician’s practice; provided, that:

(i) The maximum allowable area of the restriction is the greater of:

(a) The county in which the primary practice site is located; or

(b) A ten (10) mile radius from the primary practice site;

(ii) The duration of the restriction is two (2) years or less, unless a longer period, not to exceed five (5) years, is determined by mutual agreement of the parties in writing to be necessary to comply with federal statutes, rules, regulations, or IRS revenue rulings or private
letter rulings;

(iii) Any employment agreement or medical practice sale agreement restricting the right of a physician to practice shall:

(a) Allow the physician to buy back the physician’s medical practice for the original purchase price of the practice, or, in the alternative, if the parties agree in writing, at a price not to exceed the fair market value of the practice at the time of the buy back, at which time any such restriction on practice shall be void; and

(b) Not require that the physician give more than thirty-day’s notice to exercise the repurchase option; provided, that this provision shall not otherwise affect the contract termination notice requirements; and

(iv) If the buy back provision is dependent upon a determination of the fair market value of the practice, the contract shall specify the method of determining fair market value by independent appraisal, in the event that the parties cannot agree as to the fair market value. The contract shall also include the following language:

“In the event that the employing entity and the physician cannot agree upon the fair market value of the practice within ten (10) business days of the physician’s notice of intent to repurchase the practice, the physician may remove any contractual restrictions upon the physician’s practice by tendering to the employing entity the amount that was paid to the physician for the practice. The employing entity or the physician may then seek a determination of the fair market value of the practice by the independent appraisal method specified by contract.”

(B) For physicians employed independently of a bona fide practice purchase, employing entities shall not restrict the employed physician’s right to practice medicine upon the termination or conclusion of the employment relationship, except as allowed by § 63-1-148 or any successor section.

(3) Notwithstanding the foregoing, in the event that the employment contract with a physician employed independently of a bona fide practice purchase is terminated by the employing entity for reasons other than breach by the employee, any such restrictions shall be void.

(4) In any event, nothing in this section shall prohibit any of the following from employing physicians:

(A) A licensed physician; or

(B) A group of licensed physicians, including, but not limited to, either of the following:

(i) A physicians’ professional corporation registered under title 48, chapter 101; or

(ii) A domestic nonprofit public benefit corporation:

(a) That is recognized as exempt under § 501(c)(3) of the Internal Revenue Code (26 U.S.C. § 501(c)(3)), or any successor section;

(b) A purpose of which is to engage in medical education and medical research in conjunction with a college or university operating an accredited medical school in Tennessee;

(c) Whose physician-employees are restricted to the medical faculty of such a college or university; and
(d) Which operates as a “faculty practice plan” for purposes of Title XVIII of the federal Social Security Act (42 U.S.C., Chapter 7, subchapter XVIII), and regulations promulgated in connection therewith;

Provided, that with respect to any such domestic nonprofit public benefit corporation, physician employees of any such faculty practice plan who practice in the specialties of radiology, pathology, anesthesiology and/or emergency medicine shall be restricted to practice as faculty practice plan employees in those health care institutions, including but not limited to hospitals or surgery centers, in which they were practicing as employees of the nonprofit public benefit corporation on May 30, 1997.

(5) A hospital affiliate that employs physicians shall not engage in any business other than the employment of physicians, the management of physicians and health care facilities, or the ownership of property and facilities used in the provision of health care services. An affiliate of a hospital that employs physicians pursuant to this part shall be subject to the authority of the applicable licensing board under either title 68, chapter 11, or title 33, chapter 2 in connection with employment of physicians. Any violation of this statute by an affiliate shall subject any hospital at which the physician has staff privileges, and that controls or is under common control with the affiliate to the penalties and sanctions applied to hospitals that employ physicians.

(6)(A) No radiologist, anesthesiologist, pathologist, or emergency physician may be employed by a hospital or an affiliate of a hospital, and no hospital or an affiliate of a hospital, may employ any physician to provide medical services provided by radiologists, anesthesiologists, pathologists, or emergency physicians; provided, that a physician may be employed to provide emergency medical services if such physician is employed to provide other medical services.

(B) Notwithstanding subdivisions (f)(6)(A) and (f)(1), a “research hospital,” as defined in this section, may employ radiologists, anesthesiologists, or pathologists under the same terms and conditions as other physicians.

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

(A) “Affiliate” of a hospital means an entity that directly or indirectly is controlled by, or is under common control with, a hospital licensed under title 68, chapter 11 or title 33, chapter 2. “Affiliate” does not mean, however, a health maintenance organization licensed under title 56, chapter 32;

(B) “Anesthesiologist” is a physician who has completed a residency in anesthesiology and whose practice is primarily limited to anesthesiology, including, without limitation, nerve block, pain management, cardiac and respiratory resuscitation, respiratory therapy, management of fluids, electrolyte and metabolic disturbances, or a dentist licensed in the state who completed a residency program in anesthesiology at an accredited medical school in years 1963 through 1977;

(C) “Emergency physician” is a physician who has either completed a residency in emergency medicine, or practiced emergency medicine full time for a three year period, and whose practice is limited to emergency medicine. “Emergency physician” does not include, however, a physician who has been previously employed to provide nonemergent medical services who, over a period of twelve (12) months or more, becomes a full time emergency physician and who remains employed by mutual
agreement;

(D) “Employing entity” means a hospital licensed under title 68, chapter 11, or title 33, chapter 2, or an affiliate of such an entity, that employs one (1) or more physicians. “Employing entity” does not mean, however, a health maintenance organization licensed under title 56, chapter 32;

(E) “Pathologist” is a physician who has completed a residency in pathology and whose practice is primarily limited to pathology, including, without limitation, anatomic and clinical pathology;

(F) “Physician” means a person licensed pursuant to chapter 6 or 9 of this title;

(G) “Psychiatrist” means a physician who has completed a residency in psychiatry and whose practice is primarily limited to psychiatry.

(H) “Radiologist” is a physician who has completed a residency in radiology and whose practice is primarily limited to radiology, including, without limitation, diagnostic radiology, radiation therapy, and radiation oncology; and

(I) “Research hospital” means a hospital at which fifty percent (50%) or more of the inpatients treated during the previous calendar year were treated pursuant to research protocols.

(g)(1) Notwithstanding this section, nothing shall prohibit a renal dialysis clinic licensed under title 68, chapter 11 or an affiliate of a renal dialysis clinic from employing licensed physicians other than radiologists, anesthesiologists, pathologists or emergency physicians to provide medical services, subject to the following conditions:

(A) Employing entities shall not restrict or interfere with medically appropriate diagnostic or treatment decisions;

(B) Employing entities shall not restrict or interfere with physician referral decisions unless:

(i) The physician so employed has agreed in writing to the specific restrictions at the time that the contract is executed;

(ii) The restriction does not, in the reasonable medical judgment of the physician, adversely affect the health or welfare of the patient; and

(iii) The employing entity discloses the restrictions to the patient; and

(C) In the event that there is any dispute relating to subdivision (g)(1)(A) or (g)(1)(B), the employing entity shall have the burden of proof.

(2) Employing entities shall not restrict the employed physician’s right to practice medicine upon the termination or conclusion of the employment relationship, except as allowed by § 63-1-148 or any successor section.

(3) Notwithstanding § 63-1-148 or any successor section, in the event that the employment contract with a physician employed independently of a bona fide practice purchase is terminated by the employing entity for reasons other than breach by the employee, the restrictions shall be void.

(4) In any event, nothing in this section shall prohibit any of the following from employing physicians:

(A) A licensed physician; or

(B) A group of licensed physicians, including, but not limited to, either of the following:

(i) A physicians’ professional corporation registered under title 48, chapter 101; or

(ii)(a) A domestic nonprofit public benefit corporation:

(1) That is recognized as exempt under § 501(c)(3) of the Inter-
nal Revenue Code (26 U.S.C. § 501(c)(3)) or any successor section;

(2) A purpose of which is to engage in medical education and medical research in conjunction with a college or university operating an accredited medical school in Tennessee;

(3) Whose physician-employees are restricted to the medical faculty of such a college or university; and

(4) That operates as a faculty practice plan for purposes of Title XVIII of the federal Social Security Act (42 U.S.C. chapter 7, subchapter XVIII) and regulations promulgated in connection therewith.

(b) Provided, that, with respect to the domestic nonprofit public benefit corporation, physician employees of the faculty practice plan who practice in the specialties of radiology, pathology, anesthesiology or emergency medicine shall be restricted to practice as faculty practice plan employees in those health care institutions, including, but not limited to, hospitals or surgery centers, in which they were practicing as employees of the nonprofit public benefit corporation on May 30, 1997.

(5) An affiliate of a renal dialysis clinic that employs physicians shall not engage in any business other than the employment of physicians, the management of physicians and health care facilities or the ownership of property and facilities used in the provision of health care services or a tissue bank or organ procurement agency. An affiliate of a renal dialysis clinic that employs physicians pursuant to this part shall be subject to the authority of the applicable licensing board under title 68, chapter 11, in connection with employment of physicians. Any violation of this subdivision (g)(5) by an affiliate shall subject any renal dialysis clinic at which the physician has staff privileges and that controls or is under common control with the affiliate to the penalties and sanctions applied to renal dialysis clinics that employ physicians.

(6) No radiologist, anesthesiologist, pathologist or emergency physician may be employed by a renal dialysis clinic or an affiliate of a renal dialysis clinic, and no renal dialysis clinic or an affiliate of a renal dialysis clinic may employ any physician to provide medical services provided by radiologists, anesthesiologists, pathologists or emergency physicians; provided, that a physician may be employed to provide emergency medical services if the physician is employed to provide other medical services.

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

(A) “Affiliate” of a renal dialysis clinic means an entity that directly or indirectly is controlled by or is under common control with a renal dialysis clinic licensed under title 68, chapter 11. “Affiliate” does not mean, however, a health maintenance organization licensed under title 56, chapter 32;

(B) “Anesthesiologist” is a physician who has completed a residency in anesthesiology and whose practice is primarily limited to anesthesiology, including, without limitation, nerve block, pain management, cardiac and respiratory resuscitation, respiratory therapy, management of fluids, electrolyte and metabolic disturbances or a dentist licensed in this state who completed a residency program in anesthesiology at an accredited medical school in years 1963 through 1977.

(C) “Emergency physician” is a physician who has either completed a residency in emergency medicine or practiced emergency medicine full-
time for a three year period and whose practice is limited to emergency medicine. “Emergency physician” does not include, however, a physician who has been previously employed to provide nonemergent medical services who, over a period of twelve (12) months or more, becomes a full-time emergency physician and who remains employed by mutual agreement;

(D) “Employing entity” means a renal dialysis clinic licensed under title 68, chapter 11 or an affiliate of such an entity that employs one (1) or more physicians. “Employing entity” does not mean, however, a health maintenance organization licensed under title 56, chapter 32;

(E) “Pathologist” is a physician who has completed a residency in pathology and whose practice is primarily limited to pathology, including, without limitation, anatomic and clinical pathology;

(F) “Physician” means a person licensed pursuant to chapter 6 or 9 of this title; and

(G) “Radiologist” is a physician who has completed a residency in radiology and whose practice is primarily limited to radiology, including, without limitation, diagnostic radiology, radiation therapy and radiation oncology.

(h)(1) The general assembly finds that there are special facts above and beyond ordinary competition that would give an unfair advantage to a physician when competing with the physician’s former employer, if the former employer is a faculty practice plan. The existence of such special facts warrants protection of the faculty practice plan through restrictive covenants and prohibitions against an employed physician’s right to practice medicine upon the termination or conclusion of the employment relationship. The general assembly further finds that the faculty practice plan’s right to be free of unfair competition from a former employed physician outweighs any financial hardship to the former employed physician resulting from the operation of any such restrictive covenants or prohibition. The general assembly further finds that restrictive covenants and prohibitions against an employed physician’s right to practice medicine upon the termination or conclusion of the employment relationship with a faculty practice plan are reasonable and not inimical to the public interest, subject to the temporal and geographic limitations set forth in subdivision (h)(2).

(2) A faculty practice plan may impose restrictions or prohibitions upon an employed physician’s right to practice medicine upon the termination or conclusion of the employment relationship provided that:

(A) The maximum area of the restrictions or prohibitions is the greater of:

(i) The county in which the primary practice site is located; or
(ii) A ten (10) mile radius from the primary practice site; and

(B) The maximum duration of the restrictions or prohibitions is two (2) years.

(3) As used in this subsection (h), “faculty practice plan” means a domestic nonprofit public benefit corporation as defined in subdivision (f)(4)(B)(ii).

(4) As used in this subsection (h), “primary practice site” includes any health care institution, including, but not limited to, a hospital, clinic, surgery center, or physicians’ office, that the faculty practice plan or its affiliated college or university owned, leased, or operated within two (2) years before the termination or conclusion of the employment relationship between the physician and the faculty practice plan and at which the
employed physician practiced medicine within such period of two (2) years.

(5) This subsection (h) shall not apply:

(A) To any physician employee of a faculty practice plan who practices in the specialties of ophthalmology, pathology, anesthesiology and/or emergency medicine; or

(B) With respect to any physician employee of a faculty practice plan who practices as a primary care physician or in the specialties of obstetrics or general pediatrics in a health resources shortage area as determined in the health access plan most recently published by the department of health.

(6) The requirements of this subsection (h) shall not be construed to preclude the enforceability of any restrictive covenant or prohibition exceeding the requirements or conditions of this subsection (h) that is reasonable and not inimical to the public interest under the common law principles governing restrictive covenants.

(i) Notwithstanding the restrictions contained in this section, a nursing home or affiliate of a nursing home may employ a physician pursuant to § 68-11-205.

(j)(1) Nothing in this section shall be construed to prohibit a charitable clinic from employing or contracting with a physician; provided, that the contractual relationship between the physician and the charitable clinic is evidenced by a written contract, job description, or documentation, containing language that does not restrict the physician from exercising independent professional medical judgment in diagnosing and treating patients.

(2) For the purposes of this subsection (j), the term “charitable clinic” means an entity that meets the following standards:

(A) Has received a determination of exemption from the internal revenue service under 26 U.S.C. § 501(c)(3) or is a distinct part of an entity that has received such a determination of exemption;

(B) Has clinical facilities located in this state;

(C) Has a primary mission to provide health care or dental care services to low-income, uninsured, or underserved individuals;

(D) Provides one (1) or more of the following services for free or at a discounted rate:

(i) Medical care;

(ii) Dental care;

(iii) Mental health care; or

(iv) Prescription medications;

(E) Utilizes volunteer healthcare professionals and nonclinical volunteers; and

(F) Is not required to be licensed under § 68-11-202(a)(1).

(3) For the purposes of this section, the term “employing” shall not allow the employing of those physicians exempted in subdivision (e)(3).

(k) This section does not prohibit a licensed nonresidential office-based opiate treatment facility, as defined in § 33-2-402, from employing or contracting with a physician if the facility has a physician in the ownership structure of its controlling business entity and the employment relationship between the physician to be employed or contracted with and the nonresidential office-based opiate treatment facility is evidenced by a written contract or employment agreement containing language that does not restrict the physician from exercising independent professional medical judgment in diagnosing and treating patients.
63-6-239. [Repealed.]

63-6-247. [Repealed.]

63-7-103. “Practice of professional nursing” and “professional nursing” defined.

(a)(1) “Practice of professional nursing” means the performance for compensation of any act requiring substantial specialized judgment and skill based on knowledge of the natural, behavioral and nursing sciences and the humanities as the basis for application of the nursing process in wellness and illness care.

(2) “Professional nursing” includes:

(A) Responsible supervision of a patient requiring skill and observation of symptoms and reactions and accurate recording of the facts;

(B) Promotion, restoration and maintenance of health or prevention of illness of others;

(C) Counseling, managing, supervising and teaching of others;

(D) Administration of medications and treatments as prescribed by a licensed physician, dentist, podiatrist, or nurse authorized to prescribe pursuant to § 63-7-123, or selected, ordered, or administered by an advanced practice registered nurse specializing as a certified registered nurse anesthetist (CRNA) 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. A CRNA shall collaborate in a cooperative working relationship with the ordering physician, dentist, or podiatrist in the provision of patient care, which includes consultation regarding patient treatment and cooperation in the management and delivery of health care;

(E) Application of such nursing procedures as involve understanding of cause and effect; and

(F) Nursing management of illness, injury or infirmity including identification of patient problems.

(b) Notwithstanding subsection (a), the practice of professional nursing does not include acts of medical diagnosis or the development of a medical plan of care and therapeutics for a patient, except to the extent such acts may be authorized by §§ 63-1-132, 63-7-123 and 63-7-207.

(c)(1) This section does not preclude a qualified registered nurse from determining whether a patient presenting to a hospital has an emergency medical condition if the determination is pursuant to:

(A) A cooperative working relationship with a physician; and

(B) Protocols jointly developed by the hospital’s medical and nursing leadership and adopted by the hospital’s medical staff and governing body.

(2) The protocols described in subdivision (c)(1) must include a requirement that the qualified registered nurse obtain the concurrence of a physician when making a determination authorized under subdivision (c)(1).

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

(A) “Emergency medical condition” means:

(i) A medical condition manifesting itself by acute symptoms of sufficient severity, including severe pain, such that the absence of
immediate medical attention could reasonably be expected to result in:

(a) Placing the health of the individual or, with respect to a pregnant woman, the health of the woman or the woman’s unborn child, in serious jeopardy;
(b) Serious impairment to bodily functions; or
(c) Serious dysfunction of any bodily organ or part; and

(ii) With respect to a pregnant woman who is having contractions:
(a) That there is inadequate time to effect a safe transfer to another hospital before delivery; or
(b) That transfer may pose a threat to the health or safety of the woman or the woman’s unborn child; and

(B) “Qualified registered nurse” means a registered nurse who has been approved by the hospital governing body, based on the recommendation of hospital nursing leadership, as possessing the skills and competency to make a determination of the existence of a specified emergency medical condition of a patient presenting to a hospital.

63-7-122. Enjoining violations.

(a) The board of nursing, in addition to the powers and duties expressly granted by this chapter in the matter of suspension or revocation of a license, is authorized and empowered to petition any circuit or chancery court having jurisdiction to enjoin:

(1) Any person from practicing or from attempting to practice as a professional or registered nurse, as described in § 63-7-103, or as a licensed practical nurse, as described in § 63-7-108, without possessing a valid license;
(2) Any licensee from practicing who has been found guilty of the acts enumerated in § 63-7-115; or
(3) Any person from using the title “nurse” or from using any other title, abbreviation, or designation in connection with the person’s name, occupation, or profession that indicates or implies that the person is a practicing nurse, but who does not possess a valid license or certificate from the board of nursing.

(b) No injunction bond shall be required of the board.

(c) Jurisdiction is conferred upon the circuit and chancery courts to hear and determine such causes as chancery causes and to exercise full and complete jurisdiction in such injunctive proceedings.

63-7-123. Certified nurse practitioners — Drug prescriptions — Temporary certificate — Rules and regulations.

(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 practitio-
ner, 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.

(6) An advanced practice registered nurse with a certificate of fitness issued pursuant to this chapter, who provides services in a community
mental health center as defined in § 33-1-101, may arrange for the required personal review of the advanced practice registered nurse’s charts by a collaborating physician, with the same authority to render prescriptive services that the nurse practitioner is authorized to render, in the office or practice site of the physician, or the required visit by a collaborating physician to any remote site, or both, via HIPAA-compliant electronic means rather than at the site of the clinic. For purposes of this subdivision (b)(6), “HIPAA-compliant” means that the entity has implemented technical policies and procedures for electronic information systems that meet the requirements of 45 C.F.R. § 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.

63-7-129. Use of title “nurse”.

Notwithstanding any provision of any title to the contrary, a person shall not use the title “nurse” or any other title, abbreviation, or designation in connection with the person’s name, occupation, or profession to indicate or imply that the person is a practicing nurse unless the person is actively licensed or certified by the board of nursing.

63-8-129. [Repealed.]

63-9-118. [Repealed.]

63-10-222. Medication therapy management pilot program — Reporting of costs and patient outcomes.

The bureau of TennCare is directed to report to the senate health and welfare committee and the committee of the house of representatives having oversight over TennCare regarding program costs and patient outcomes related to incorporating the pharmacist-provided medication therapy management pilot program on or before April 15 of each year the pilot program is supported.
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; and
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).

(4) [Deleted by 2019 amendment.]

63-17-110. License requirements — Qualifications of applicants — Provisional license.

(a) Any person wishing to practice or represent such person as a speech language pathologist or audiologist in this state shall obtain a license from the board. Unless such person obtains a license, it is unlawful for such person to practice or represent such person as a speech language pathologist or audiologist as defined in § 63-17-103; and if that person so practices or represents, the person shall be considered to have violated this chapter.

(b) To be eligible for licensure by the board as a speech language pathologist or audiologist, the applicant must:

1. Be of good moral character, be eighteen (18) years of age or older and possess at least a master’s degree in the area of speech language pathology or audiology obtained from educational institutions approved by the board according to the regulations duly adopted under this chapter;
2. Pass an examination covering the areas of speech language pathology, audiology and speech and hearing services approved by the board. The board determines the scope of the examinations. Written examinations may be supplemented by such oral examinations as the board determines. An applicant who fails the examination may be reexamined at a subsequent examination upon payment of another examination fee; and
3. Submit evidence of the completion of the educational, clinical experience and employment requirements prescribed by the rules and regulations adopted pursuant to this chapter.

(c) (1) A person who has completed the educational requirements for licensure as a speech language pathologist and has received at least a master’s degree from an approved educational institution may apply for and receive from the board a provisional license to practice as a clinical fellow during the person’s period of supervised clinical experience. The board may adopt rules to establish standards and procedures to govern provisional licenses and the provisional license fee.

(2) Until such time as the board has adopted rules to establish standards and procedures to govern provisional licenses, the provisions of Rules and
Regulations of the State of Tennessee, Rule 1370-01-.10, governing registration of clinical fellows, apply to persons seeking a provisional license to practice as a clinical fellow during the period of supervised clinical experience.

(3) Any person who, on May 8, 2019, has been registered as a clinical fellow pursuant to Rules and Regulations of the State of Tennessee, Rule 1370-01-.10, is deemed to have a provisional license for the same period of time that the person’s registration would be effective under that rule.

(d) A person who applies for licensure as an audiologist on or after January 1, 2009, shall possess a doctoral degree from an accredited educational program approved by the board. The doctoral degree may be a doctor of audiology degree (Au.D.) or other doctoral degree approved by the board. In addition to possessing a doctoral degree, the applicant shall meet the other requirements of subsection (b), except that the doctoral degree shall be in lieu of the master’s degree previously required of applicants.

(e) The requirement to have a doctoral degree shall not apply to audiologists who were licensed in this or any other state prior to January 1, 2009.

63-17-114. Exemptions.

Nothing in this part shall be construed to:

(1) Prevent a qualified person licensed in this state under any other law from engaging in the profession for which such person is licensed;

(2) Restrict or prevent activities of a speech language pathology or audiology nature or the use of the official title of the position for which they were employed on the part of the following persons:

   (A) Persons who hold a valid and current credential as a speech and hearing specialist issued by the department of education; and

   (B) Speech language pathologists or audiologists employed by federal governmental agencies; provided, that such persons are performing such activities solely within the confines of, or under the jurisdiction of, the organization in which they are employed and do not offer to render speech language pathology or audiology services as defined in § 63-17-103, to the public outside of the institutions or organizations in which they are employed. However, such persons may, without obtaining a license under this chapter, consult or disseminate their research findings and scientific information to other such accredited academic institutions or governmental agencies. They also may offer lectures to the public for a fee, monetary or otherwise, without being licensed under this chapter;

(3) Restrict the activities and services of a student or a speech language pathology intern in speech language pathology pursuing a course of study leading to a degree in speech language pathology at an accredited or approved college or university or an approved clinical training facility; provided, that these activities and services constitute a part of the student’s supervised course of study and that such persons are designated by such title as “speech language pathology intern,” “speech language pathology trainee” or other such title clearly indicating the training status appropriate to the student’s level of training;

(4) Restrict the activities and services of a student of audiology or intern in audiology pursuing a course of study leading to a degree in audiology at an accredited or approved college or university or an approved clinical
training facility; provided, that these activities and services constitute a part of the student's supervised course of study and that such person is designated by such title as “audiology intern,” “audiology trainee” or other such title clearly indicating the training status appropriate to the student's level of training;

(5)(A) Restrict a person from another state from offering such person's speech language pathology or audiology services in the state; provided, that such services are performed for no more than five (5) days in any calendar year and that such person meets the qualifications and requirements stated in the section on qualifications and does not sell hearing instruments;

(B) However, a person from another state who is licensed or certified as a speech language pathologist by a similar board of another state, territory of the United States or of a foreign country or province and whose standards are equivalent to, or higher than, at the date of such person's certification or licensure, the requirements of this chapter and regulations duly adopted pursuant to this part or a person who meets the qualifications and requirements and resides in a state or territory of the United States or a foreign country or province that does not grant certification or license to speech language pathologists may also offer speech language pathology services in this state for a total of not more than thirty (30) days in any calendar year without being licensed under this law;

(6) Prevent the activities and services of a speech language pathologist obtaining the pathologist's year of paid professional experience; provided, that such person is under the supervision of a speech language pathologist licensed under this chapter or a speech language pathologist certified under the American Speech and Hearing Association (ASHA). A licensed or ASHA certified speech language pathologist shall not supervise more than three (3) speech language pathologists with a provisional license at any one (1) time;

(7) Restrict the activities and services of an audiologist obtaining the audiologist's year of paid professional experience; provided, that such person is under the supervision of a licensed or ASHA certified audiologist. A licensed or ASHA certified audiologist shall not supervise more than three (3) unlicensed audiologists at any one (1) time;

(8) Restrict the activities and services of a person performing audiometric tests under the direct supervision of a physician licensed to practice by the state board of medical examiners; and

(9) Permit any person licensed by this chapter to practice medicine in any form or in any of its branches. Nothing in this chapter shall be construed as applying to physicians licensed under chapters 1 and 6 of this title.

63-17-207. Preliminary application requirements — Fees.

(a) An applicant for a license shall:

1. Be at least eighteen (18) years of age; and

2. Have an education equivalent to two (2) years of accredited college level coursework or national board for certification in hearing instrument sciences (NBC-HIS) board certification.

(b) Such applicant shall pay a nonrefundable application fee as set by the council no later than forty-five (45) days in advance of the next scheduled examination.
63-18-105. License requirements — Issuance.

(a) The board shall establish procedures and criteria for the issuance of licenses to persons and establishments engaged in massage for compensation.

(b) No person or establishment shall be issued a license until the applicant and each person engaged in massage at such massage establishment has provided evidence satisfactory to the board that:

(1) The applicant is eighteen (18) years of age or older;

(2) The applicant has not been convicted of the offense of prostitution or sexual misconduct;

(3) The applicant has:

(A) Successfully completed the curriculum or curricula of one (1) or more post-secondary academic institutions for massage, bodywork or somatic therapy as defined by board regulations, totaling five hundred (500) hours or more, such institutions being approved by the board pursuant to § 63-18-115, and either authorized by the Tennessee higher education commission, or its equivalent in other states, or approved, or under the governance of, the Tennessee board of regents;

(B) Received a passing score on a competency examination approved by the board;

(C)(i) Any person who has completed a program of study as required by subdivision (b)(3)(A) in a post-secondary academic institution located in Tennessee and receives a diploma or certificate prior to September 1, 2005, shall be issued a license without completing the examination requirement of this section;

(ii) Any person who meets the requirements of subdivision (b)(3)(C)(i) shall have until January 1, 2006, to apply for such a license;

(iii) Persons licensed under this subdivision (b)(3)(C) shall not be considered to have national certification and shall not hold themselves out to be nationally certified; and

(4) All required fees have been paid.

(c) Notwithstanding the requirements of this part, no establishment license is required for the office of a physician licensed under chapter 4, 6, or 9 of this title if a massage for compensation is provided within that office by a licensed massage therapist.


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. 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;

(I) A physician assistant authorized to prescribe drugs under this subdivision (2), who provides services in a community mental health center as defined in § 33-1-101, may arrange for the required personal review of the physician assistant’s charts by a collaborating physician, with the same authority to render prescriptive services that the physician assistant is authorized to render, in the office or practice site of the physician, or the required visit by a collaborating physician to any remote site, or both, via HIPAA-compliant electronic means rather than at the site of the clinic. For purposes of this subdivision (2)(I), “HIPAA-compliant” means that the entity has implemented technical policies and procedures for electronic information systems that meet the requirements of 45 C.F.R. § 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.

63-22-201. Part definitions.

The following definitions shall apply in this part, unless the context clearly requires a different meaning:

(1) “Advertise” means, but is not limited to, business solicitations, with or without limiting qualifications, in a card, sign or device issued to a person, in a sign or marking in or on any building or in any newspaper, magazine, directory or other printed matter. Advertising also includes business solicitations communicated by individual, radio, video or television broadcasting or other means designed to secure public attention;

(2) [Deleted by 2019 amendment.]

(3) [Deleted by 2019 amendment.]

(4) [Deleted by 2019 amendment.]

(5) “Certified clinical pastoral therapist” means a person who has met the qualifications for certified clinical pastoral therapist and holds a current, unsuspended or unrevoked certificate that has been lawfully issued by the board;

(6) “Clinical pastoral education” means program of training designed to acquaint students of theology and practicing clergy with the clinical method of learning, increase skills in the arts of pastoral care and facilitate integration of a professional pastoral identity. Programs typically occur in general medical, psychiatric or penal institutions;

(7) “Clinical pastoral therapy” means the diagnosis and treatment, from a clinical pastoral perspective, of the psychodynamics, interpersonal dynamics and spiritual dynamics of persons experiencing emotional behavioral or relational distress or dysfunction. Clinical pastoral therapy involves the integration and professional application of resources and techniques from the religious community’s traditions of pastoral care and counsel along with recognized principles, methods and procedures of the contemporary psychotherapy community in the delivery of counseling and psychotherapeutic services to individuals, couples, families and groups;

(8) “Licensed clinical pastoral therapist” means a person who has met the qualifications for a licensed clinical pastoral therapist and who holds a current, unsuspended or unrevoked license that has been issued lawfully by the board;

(9) “Practice of clinical pastoral therapy” means the rendering of professional clinical pastoral therapy to individuals, couples, families or groups, either offered directly to the general public by an individual operating independently of any institution, organization or agency, through mental health clinics or agencies, whether public or private or through hospitals, whether public or private, for a fee, excluding volunteer hours;

(10) “Recognized educational institution” means any educational institution that is accredited by a nationally or regionally recognized educational accrediting body;

(11) “Supervision” means the direct clinical review, for the purpose of training or teaching, by a board-approved supervisor, of a clinical pastoral therapist’s interaction with clients. The purpose of supervision shall be to promote the development of the practitioner’s clinical skills. Supervision may include, without being limited to, the review of case presentations,
Audio tapes, videotapes and direct observation; and

(12) “Use a title or description of” means to hold oneself out to the public as having a particular status by means of stating on signs, mailboxes, address plates, stationery, announcements, business cards or other instruments of professional identification.


An applicant for licensure as a licensed clinical pastoral therapist shall pay the board a nonrefundable fee as set by the board and shall satisfy the board that the applicant:

(1) Is at least eighteen (18) years of age;
(2) Is of good moral character;
(3) Has met the educational standards set by the board, which shall include:
   (A) The completion of a course of studies consisting of a minimum of sixty (60) graduate semester hours in a curriculum approved by the board, of which a minimum of nine (9) graduate semester hours must relate specifically to the diagnosis and treatment of mental disorders, and the awarding of a master's or doctoral degree from a recognized educational institution; and
   (B) The completion of a supervised clinical experience within the academic degree program as either a practicum or internship that includes experience in the assessment, diagnosis, and treatment of the psychodynamics, interpersonal dynamics, and spiritual dynamics of persons experiencing emotional, behavioral, relational, or spiritual distress or dysfunction. The experience required under this subdivision (3)(B) must be conducted under the supervision of a board-approved supervisor;
(4) Has provided a minimum of one thousand four hundred (1,400) hours of pastoral therapy with individuals, couples, families, or groups while receiving a minimum of two hundred seventy (270) hours of supervision of such therapy under board-approved supervision; and
(5) Has passed examinations as approved by the board.

63-22-208. Temporary license.

(a) The board is authorized to issue a temporary license to a clinical pastoral therapist applicant who has completed the academic course work and supervised clinical experience for the license sought; provided, that in order to retain the temporary license, the applicant shall take the written examination required by the board the first time it is scheduled following issuance of the temporary license unless granted an extension by the board after submitting a written request to the board and making a showing of good cause as determined by the board. The applicant must successfully pass the exam within two (2) years following issuance of the temporary license unless the applicant receives a good cause extension by the board. An applicant may only receive one (1) good cause extension from the board.

(b) A temporary license obtained pursuant to this section authorizes the applicant to engage in the practice of clinical pastoral therapy under the supervision of an under the supervision of a board-approved supervisor.

(c) In order to receive a temporary license, the applicant must submit to the board the following:
(1) A completed application for a temporary license;
(2) Satisfactory evidence of an agreement with a board-approved supervisor; and
(3) All required fees.

(d) A temporary license shall be nonrenewable and shall be valid for a period of not more than three (3) years. A temporary license may be extended beyond the three-year period at the discretion of the board if an applicant shows good cause for an extension as determined by the board. Only one (1) extension may be granted by the board for an applicant to extend the length of the applicant’s temporary license. Within the period of temporary licensure, the applicant shall submit to the board an application for the regular license and shall present supporting documentation demonstrating the satisfactory completion of the required supervised clinical experience. The board shall then grant or deny the application for the regular license, based on satisfactory completion of all requirements for licensure. If the board approves or denies the application for the regular license or if the board revokes the temporary license for any reason, then the temporary license shall cease to be valid and shall be returned to the board.

(e) The holder of a temporary license as a clinical pastoral therapist shall not represent himself or herself to be a licensed clinical pastoral therapist. The holder of a temporary license as a clinical pastoral therapist may only represent himself or herself to be a “pastoral therapy intern,” a “pastoral therapy trainee,” or such other title designation that clearly reflects trainee status and temporary licensure.

63-26-119. Authority over educational programs — Fraudulent or deceptive promotions.

(a) In addition to other powers and duties, the commissioner has the authority to:
(1) Set standards by which an electrology education program may be approved;
(2) Review with the state board of education and the Tennessee higher education commission a progressive electrology education program in the state;
(3) Evaluate the need for such programs in the geographical area in which the electrology program will be located;
(4) Approve and license institutions in this state that meet the requirements of the electrology education program;
(5) Maintain a list of the institutions offering electrology education programs approved by the commissioner; and
(6) Remove an institution from the list of institutions that offer approved electrology education if the institution:
   (A) Is guilty of fraud or deceit in obtaining or attempting to obtain approval;
   (B) Acts in a manner not consistent with generally accepted standards for the practice of electrology;
   (C) Violates standards set under this chapter and fails to correct the violation in a reasonable time after notice has been given;
   (D) No longer operates a program that is approved under this chapter; or
(E) Promotes electrology in a manner that the commissioner determines is unreasonable, misleading or fraudulent.

(b) The commissioner shall monitor fraudulent or deceptive promotion of permanent hair removal procedures.


(a) The East Tennessee regional agribusiness marketing authority is hereby created as a public body corporate and politic, referred to as the “authority” in this part. The authority is a public and governmental body acting as an agent and instrumentality of the counties with respect to which the authority is organized. As such, all property of the authority, both real and personal, are exempt from all local, state and federal taxation.

(b) The acquisition, operating and financing of the authority and related purposes are hereby declared to be for public and governmental purposes and a matter of public necessity to further the economy and growth of the agricultural industry of the region.

(c) The purposes of the East Tennessee regional agribusiness marketing authority are to:

1. Establish and operate a market for agricultural products of the region through a food distribution center, to provide farmers of the region with a ready market for agricultural products and to provide the citizens of the region and other buyers a convenient place to purchase these products;

2. Further the economy and growth of the region served by the authority by planning, acquiring, constructing, improving, extending, furnishing, equipping, financing, owning, operating and maintaining a system or systems within the region served by the authority as provided in this part; and

3. Further the economy and growth of the region served by the authority by developing, marketing, and promoting facilities for warehousing, distribution, light manufacturing, and agribusiness purposes.

64-10-106. Powers and duties.

(a) The authority has the following powers:

1. Perpetual succession in corporate name;

2. Sue and be sued in its name;

3. Adopt, use and alter a corporate seal, which shall be judicially noticed;

4. Enter into such contracts and cooperative agreements with the federal, state and local governments, with agencies of such governments, with private individuals, corporations, associations and other organizations as the board may deem necessary or convenient to enable it to carry out the purposes of this part;

5. Adopt, amend and repeal bylaws;

6. Appoint such managers, officers, employees, attorneys and agents as the board deems necessary for the transaction of its business, fix their compensation, define their duties and require bonds of such of them as the board may determine. The salaries of any such employees may be paid out of such funds as may be available to the authority;

7. Accept the transfer of grants, funds, assets and liabilities of the East Tennessee agribusiness authority upon the termination of the interlocal government cooperative agreement establishing such authority, in accor-
dance with § 64-10-117; and

(8) Enter into lease purchase agreements with private individuals, corporations, associations, and other organizations currently leasing property from the authority or wishing to establish a location on authority property. Any lease purchase agreement entered into under this subdivision (a)(8) must be approved by a two-thirds (2/3) majority vote of the board.

(b) The board shall:

(1) Approve an annual budget for the authority;

(2) Adopt a purchasing policy and a personnel policy consistent with state and federal law; and

(3) Adopt policies and procedures for fiscal control and accounting.

(c) Without limiting the foregoing, the authority shall have the following powers with respect to a system:

(1) To plan, establish, acquire, whether by purchase, exchange, gift, devise, lease, the exercise of the power of eminent domain or otherwise, and to construct, equip, furnish, improve, repair, extend, maintain and operate one (1) or more systems within the region, including all real and personal property, facilities and appurtenances that the board of directors of the authority deems necessary in connection therewith and regardless of whether or not such system shall then be in existence;

(2) To enter into agreements with any county, city or utility district for the orderly transfer of any part of the system of such county, city or utility district and, to the extent permitted by law and contract, to assume, to reimburse or to otherwise agree to pay outstanding obligations or liability of such county, city or utility district incurred to acquire, extend or equip the system;

(3) To enter into agreements with any county, city or utility district to acquire by lease, gift, purchase or otherwise any system or property related to the system, of any county, city or utility district and operate such system separately or as a part of its system or enter into agreements with any county, city or utility district providing for the operation by the authority of a system, or any portion of the system, owned by any county, city or utility district;

(4) To acquire, whether by purchase, exchange, gift, devise, lease, the exercise of the power of eminent domain, or otherwise, any and all types of property, franchises, assets and liabilities, whether real, personal or mixed, tangible or intangible, and whether or not subject to mortgages, liens, charges or other encumbrances and to hold, sell, lease, exchange, donate or convey its property, facilities or services for the purpose of continuing operation of any system by the authority;

(5) To collect and provide treatment for wastewater from, with or to any county, city, utility district, or other governmental unit of the state, or any agency thereof, or the United States, or any agency thereof, and to enter into contracts, agreements or other arrangements with any county, city, utility district, or other persons in connection therewith; provided, however, that the authority shall not enter into any agreement to collect or provide treatment for wastewater from any private person except with the prior consent of any county, city, utility district, or other governmental entity that is authorized to provide wastewater treatment services to such private person;

(6) To make and enter into all contracts, trust instruments, agreements and other instruments with any county, city or utility district, the state, or
agency thereof, the United States, or any agency thereof, or any person, including, without limitation, bonds, notes, loan agreements with the Tennessee local development authority or the Tennessee department of environment and conservation and other forms of indebtedness as if the authority were a local government as such term is defined in applicable statutes governing grants and loans, to construct, equip or extend the system and to enter into contracts for the management and operation of a system or any facilities or service of the authority for the treatment, processing, collection, distribution, storage, transfer or disposal of wastewater;

(7) To incur debts, to borrow money, to issue bonds and to provide for the rights of the holders of such debts, notes, and bonds as provided in this part;

(8) To apply for, accept and pledge donations, contributions, loans, guarantees, financial assistance, capital grants or gifts from any county, city or utility district, the state, or any agency thereof, the United States, or any agency thereof, or any person, whether public or private, for, or in aid of, the purposes of the authority and to enter into agreements in connection with such donations, contributions, loans, guarantees, financial assistance, capital grants or gifts;

(9) To pledge all or any part of the revenues, receipts, donations, contributions, loans, guarantees, financial assistance, capital grants or gifts of the authority, to mortgage and pledge one (1) or more of its systems, or any part or parts thereof, whether owned at the time the pledge is entered into, or acquired after the pledge is entered into, and to assign and pledge all or any part of its interest in and rights under contracts and other instruments relating thereto as security for the payment of the principal, premium, if any and interest on bonds, notes or other obligations issued by the authority with respect to a system;

(10) To have control of its systems, facilities and services with the right and duty to establish and charge rates, fees, rental, tolls, deposits and other charges for the use of the facilities and services of the authority and to collect revenues and receipts therefrom, not inconsistent with the rights of holders of its bonds, notes or other obligations;

(11) To enter onto any lands, waters and premises for the purposes of making surveys, soundings and examinations in and for the furtherance of the powers of the authority under this subsection (c);

(12) To use any right-of-way, easement or other similar property right necessary or convenient in connection with a system held by the state or any political subdivision thereof, provided, that the state or the governing body of such political subdivision consents to such use;

(13) To employ and pay compensation to such agents, including attorneys, accountants, engineers, architects and financial advisors, as the board deems necessary for the business of the authority;

(14) To employ and pay compensation to such employees, including a general manager, who shall have such authority, duties and responsibilities as the board deems necessary; and

(15) To procure and enter into contracts for any type of insurance or indemnity against loss or damage to property from any cause, including loss of use and occupancy, against death or injury of any act of any member, officer or employee of the authority in the performance of the duties of the office or employment or any other insurance risk, including the payment of
its bonds, notes or other obligations, as the board deems necessary.

(d) The board may do all other things that are necessary or appropriate for

64-10-119. Tax exemption — Jurisdiction — Consent not required.

(a) The authority, its properties at any time owned by it, and the income and

revenues derived from such properties are exempt from all state, county, and

municipal taxation. Notwithstanding this subsection (a) and § 64-10-101(a),

any property sold by the authority under a lease purchase agreement is not

exempt from state, county, or municipal taxation. All bonds, notes, and other

obligations issued by the authority and the income from such bonds, notes, and

other obligations are exempt from all state, county, and municipal taxation,

except inheritance, transfer, and estate taxes, or except as otherwise provided

by state law. Bonds issued by the authority are deemed to be securities issued

by a public instrumentality or a political subdivision of the state.

(b) Neither the Tennessee public utility commission nor any board or

commission of like character hereafter created shall have jurisdiction over the

authority in the management and control of a system, including the regulation

of its rates, fees, tolls or charges; provided, however, that the authority is

subject to regulation by the department of environment and conservation as a

public sewerage system.

c) Notwithstanding any other law to the contrary, the authority may

acquire, construct, improve and extend a system in the region served by the

authority without the consent of any county, city or utility district.

65-1-107. [Repealed.]

65-5-103. Changes in utility rates, fares, schedules — Implementation

of alternative regulatory methods to allow for public

utility rate reviews and cost recovery in lieu of a general

rate case proceeding.

(a) When any public utility shall increase any existing individual rates, joint

rates, tolls, fares, charges, or schedules thereof, or change or alter any existing

classification, the commission shall have power either upon written complaint,
or upon its own initiative, to hear and determine whether the increase, change

or alteration is just and reasonable. The burden of proof to show that the

increase, change, or alteration is just and reasonable shall be upon the public

utility making the same. In determining whether such increase, change or

alteration is just and reasonable, the commission shall take into account the

safety, adequacy and efficiency or lack thereof of the service or services

furnished by the public utility. The commission shall have authority pending

such hearing and determination to order the suspension, not exceeding three

(3) months from the date of the increase, change, or alteration until the

commission shall have approved the increase, change, or alteration; provided,

that if the investigation cannot be completed within three (3) months, the

commission shall have authority to extend the period of suspension for such

further period as will reasonably enable it to complete its investigation of any

such increase, change or alteration; and provided further, that the commission

shall give the investigation preference over other matters pending before it
and shall decide the matter as speedily as possible, and in any event not later than nine (9) months after the filing of the increase, change or alteration. It shall be the duty of the commission to approve any such increase, change or alteration upon being satisfied after full hearing that the same is just and reasonable.

(b)(1) If the investigation has not been concluded and a final order made at the expiration of six (6) months from the date filed of any such increase, change or alteration, the utility may place the proposed increase, change or alteration, or any portion thereof, in effect at any time thereafter prior to the final commission decision thereon upon notifying the commission, in writing, of its intention so to do; provided, that the commission may require the utility to file with the commission a bond in an amount equal to the proposed annual increase conditioned upon making any refund ordered by the commission as provided in subdivision (b)(2).

(2) Where increased rates or charges are thus made effective, the interested utility shall maintain its records in such a manner as will enable it, or the commission, to determine the amounts to be refunded and to whom due, in the event a refund is subsequently ordered by the commission as provided in this subdivision (b)(2). Upon completion of the hearing and decision, the commission may order the utility to refund, to the persons in whose behalf such amounts were paid, such portion of such increase, change or alteration as shall have been collected under bond and subsequently disallowed by the commission. If the commission, at any time during the initial three (3) months’ suspension period, finds that an emergency exists or that the utility’s credit or operations will be materially impaired or damaged by the failure to permit the rates to become effective during the three-month period, the commission may permit all or a portion of the increase, change or alteration to become effective under such terms and conditions as the commission may by order prescribe. Any increase, change or alteration placed in effect under this subsection (b) under bond may be continued in effect by the utility, pending final determination of the proceeding by final order of the commission or, if the matter be appealed, by final order of the appellate court. Should the final order of the commission be appealed while increased rates or charges are being collected under bond, the court shall have power to order an increase or decrease in the amount of the bond as the court may determine to be proper. In the event that all or any portion of such rates or charges have not been placed into effect under bond before the commission, the court considering an appeal from an order of the commission shall have the power to permit the utility to place all or any part of the rates or charges into effect under bond.

(c) In the event the commission, by order, directs any utility to make a refund, as provided in subsection (b), of all or any portion of such increase, change or alteration, the utility shall make the same within ninety (90) days after a final determination of the proceeding by final order of the commission or, if the matter be appealed, by final order of the appellate court, with lawful interest thereon.

(d)(1)(A) The commission is authorized to implement alternative regulatory methods to allow for public utility rate reviews and cost recovery in lieu of a general rate case proceeding before the commission.

(B) For all alternative regulatory methods, the commission is authorized to develop minimum filing requirements and procedural schedules;
provided, however, that a final determination of the commission pursuant to any alternative regulatory method be made by the commission no later than one hundred twenty (120) days from the initial filing by the public utility.

(C) If the commission denies an alternative regulatory method filed by a public utility, the commission shall set forth with specificity the reasons for its denial and the public utility shall have the right to refile, without prejudice, an amended plan or amendment within sixty (60) days of the issuance of a final order. The commission shall thereafter have sixty (60) days to approve or deny the amended plan or amendment.

(2)(A) A public utility may request and the commission may authorize a mechanism to recover the operational expenses, capital costs or both, if such expenses or costs are found by the commission to be in the public interest, related to any one (1) of the following:

(i) Safety requirements imposed by the state or federal government;
(ii) Ensuring the reliability of the public utility plant in service;
(iii) Replacement of or upgrades to usage measurement devices; or
(iv) Weather-related natural disasters.

(B) The commission shall grant recovery and shall authorize a separate recovery mechanism or adjust rates to recover operational expenses, capital costs or both associated with the investment in such safety and reliability facilities, including the return on safety and reliability investments at the rate of return approved by the commission at the public utility's most recent general rate case pursuant to § 65-5-101 and subsection (a), upon a finding that such mechanism or adjustment is in the public interest.

(3)(A) A public utility may request and the commission may authorize a mechanism to recover the operational expenses, capital costs or both related to the expansion of infrastructure for the purpose of economic development, if such expenses or costs are found by the commission to be in the public interest. Expansion of economic development infrastructure may include, but is not limited to, the following:

(i) Infrastructure and equipment associated with alternative motor vehicle transportation fuel;
(ii) Infrastructure and equipment associated with combined heat and power installations in industrial or commercial sites; and
(iii) Infrastructure that will provide opportunities for economic development benefits in the area to be directly served by the infrastructure.

(B) The commission shall grant recovery and shall authorize a separate recovery mechanism or adjust rates to recover operational expenses, capital costs or both associated with the investment in such economic development facilities, including the return on such economic development investments at the rate of return approved by the commission at the public utility's most recent general rate case pursuant to § 65-5-101 and subsection (a), upon a finding that such mechanism or adjustment is in the public interest.

(4)(A)(i) A public utility may request and the commission may authorize a mechanism to recover expenses associated with efforts to promote economic development in its service territory, if such expenses are found by the commission to be in the public interest.
(ii) Efforts to promote economic development may include, but are not limited to, foregone revenues associated with economic development riders and rates.

(iii) Expenses described in subdivision (d)(4)(A)(ii) may be reflected in cost of service and be subject to recovery through the annual review process in subdivision (d)(6).

(B) Upon a finding that expenses to promote economic development have been incurred, the commission shall authorize a separate recovery mechanism or adjust rates to recover such expenses or grant recovery through the annual review process set forth in subdivision (d)(6), upon a finding that such mechanism or adjustment is in the public interest.

(5)(A) A public utility may request and the commission may authorize a mechanism to recover the operational expenses, capital costs or both related to other programs that are in the public interest.

(B) A utility may request and the commission may authorize a mechanism to allow for and permit a more timely adjustment of rates resulting from changes in essential, nondiscretionary expenses, such as fuel and power and chemical expenses.

(C) Upon a finding that such programs are in the public interest, the commission shall grant recovery and shall authorize a separate recovery mechanism or adjust rates to recover operational expenses, capital costs or both associated with the investment in other programs, including the rate of return approved by the commission at the public utility’s most recent general rate case pursuant to § 65-5-101 and subsection (a).

(6)(A) A public utility may opt to file for an annual review of its rates based upon the methodology adopted in its most recent rate case pursuant to § 65-5-101 and subsection (a), if applicable.

(B) In order for a public utility to be eligible to make an election to opt into an annual rate review, the public utility must have engaged in a general rate case pursuant to § 65-5-101 and subsection (a) within the last five (5) years; provided, however, that the commission may waive such requirement or increase the eligibility period upon a finding that doing such would be in the public interest.

(C) Pursuant to the procedures set forth in subdivision (d)(1), the commission shall review the annual filing by the public utility within one hundred twenty (120) days of receipt and order the public utility to make the adjustments to its tariff rates to provide that the public utility earns the authorized return on equity established in the public utility’s most recent general rate case pursuant to § 65-5-101 and subsection (a).

(D)(i) A public utility may terminate an approved annual review plan only by filing a general rate case pursuant to § 65-5-101 and subsection (a).

(ii) The commission may terminate an approved annual review plan only after citing the public utility to appear and show cause why the commission should not take such action pursuant to the procedures in § 65-2-106.

(iii) The commission or the public utility may propose a modification to the approved annual review plan for consideration by the commission. The commission shall determine whether any proposed modification is in the public interest and should be approved within the time frame set forth in subdivision (d)(6)(C). If the commission denies a modification to the approved annual review plan, the commission shall set forth with
specificity the reasons for its denial.

(7) In addition to the alternative regulatory methods described in this subsection (d), a public utility may opt to file for other alternative regulatory methods. Upon a filing by a public utility for an alternative method not prescribed, the commission is empowered to adopt policies or procedures, that would permit a more timely review and revisions of the rates, tolls, fares, charges, schedules, classifications or rate structures of public utilities, and that would further streamline the regulatory process and reduce the cost and time associated with the ratemaking processes in § 65-5-101 and subsection (a).

(e) For purposes of this section, “public utility” does not include a telecommunications carrier that elects market regulation pursuant to § 65-5-109.


(a) Rates for telecommunications services are just and reasonable when they are determined to be affordable as set forth in this section. Using the procedures established in this section, the commission shall ensure that rates for all basic local exchange telephone services and non-basic services are affordable on the effective date of price regulation for each incumbent local exchange telephone company.

(b) An incumbent local exchange telephone company shall, upon approval of its application under subsection (c), be empowered to, and shall charge and collect only such rates that are less than or equal to the maximum permitted by this section and subject to the safeguards in § 65-5-108(c) and (d) and the non-discrimination provisions of this title.

(c) The commission shall enter an order within ninety (90) days of the application of an incumbent local exchange telephone company implementing a price regulation plan for such company. With the implementation of a price regulation plan, the rates existing on January 1, 2009, for all basic local exchange telephone services and non-basic services, as defined in § 65-5-108, are deemed affordable if the incumbent local exchange telephone company’s earned rate of return on its most recent Tennessee public utility commission 3.01 report as audited by the commission staff pursuant to subsection (j) is equal to or less than the company’s current authorized fair rate of return existing at the time of the company’s application. If the incumbent local exchange telephone company’s earned rate of return on its most recent Tennessee public utility commission 3.01 report as audited by the commission staff pursuant to subsection (j) is greater than the company’s current authorized fair rate of return, the commission shall initiate a contested, evidentiary proceeding to establish the initial rates on which the price regulation plan is based. The commission shall initiate such a rate-setting proceeding to determine a fair rate of return on the company’s rate base using the actual intrastate operating revenues, expenses, rate base and capital structure from the company’s most recent Tennessee public utility commission 3.01 report as audited by the commission staff pursuant to subsection (j). If the incumbent local exchange telephone company’s earned rate of return is less than its current authorized fair rate of return, the company may request the commission to initiate a contested, evidentiary proceeding to establish the initial rates upon which the price regulation plan is based. Upon request by the incumbent local exchange telephone company, the commission shall initiate such a
contested, evidentiary proceeding using the same rate-setting procedures described above. Rates established pursuant to the above process shall be the initial rates on which a price regulation plan is based, subject to such further adjustment as may be made by the commission pursuant to § 65-5-107. Nothing in this section shall require a company that has elected price regulation prior to 2009 to reapply for price regulation or to reset its rates under its price regulation plan. Such a company is entitled, in its sole discretion, to the 1995 rates upon which its original election was based or may base its price regulation calculation upon rates in effect as of January 1, 2009.

(d) If not resolved by agreement, the commission shall, on petition of the competing telecommunications services provider, hold a contested case proceeding within thirty (30) days to establish initial rates for new interconnection services provided by an incumbent local exchange telephone company subsequent to June 6, 1995, which rates shall be set in accordance with Acts 1995, ch. 408. The commission shall issue a final order within twenty (20) days of the proceeding.

(e) A price regulation plan shall maintain affordable basic and non-basic rates by permitting a maximum annual adjustment that is capped at the lesser of one-half (½) the percentage change in inflation for the United States using the gross domestic product-price index (GDP-PI) from the preceding year as the measure of inflation, or the GDP-PI from the preceding year minus two (2) percentage points. An incumbent local exchange telephone company may adjust its rates for basic local exchange telephone services or non-basic services only so long as its aggregate revenues for basic local exchange telephone services or non-basic services generated by such changes do not exceed the aggregate revenues generated by the maximum rates permitted by the price regulation plan.

(f) Notwithstanding the annual adjustments permitted in subsection (e), the initial basic local exchange telephone service rates of an incumbent local exchange telephone company subject to price regulation shall not increase for a period of four (4) years from the date the incumbent local exchange telephone company becomes subject to such regulation. At the expiration of the four-year period, an incumbent local exchange telephone company is permitted to adjust annually its rates for basic local exchange telephone services in accordance with the method set forth in subsection (e); provided, that the rate for residential basic local exchange telephone service shall not be increased in any one (1) year by more than the percentage change in inflation for the United States using the gross domestic product-price index (GDP-PI) from the preceding year as the measure of inflation. Nothing in this subsection (f) shall be construed to prohibit or limit residential basic local exchange rate increases or aggregate revenues permitted in subsection (e) caused by:

1. Revenue neutral rate proposals that rebalance access revenue or touchtone revenue to residential basic local exchange service;
2. Revenue neutral rate proposals that expand local calling areas; or
3. Rate regrouping when it is based on population growth or expanded local calling such that there is an increase in the number of lines that end-users within the rate group can reach by local calling and the rate group no longer corresponds to the rate group definitions in a carrier's approved tariffs.

(g) Notwithstanding any other provision of this section, a price regulation plan shall permit a maximum annual adjustment in the rates for interconnec-
tion services that is capped at the lesser of one-half (½) the percentage change in inflation for the United States using the gross domestic product-price index (GDP-PI) from the preceding year as the measure of inflation, or the GDP-PI from the preceding year minus two (2) percentage points. An incumbent local exchange telephone company may adjust its rates for interconnection services only so long as its aggregate revenues generated by such changes do not exceed the aggregate revenues generated by the maximum rates permitted by this subsection (g); provided, that each new rate must comply with the requirements of § 65-5-108 and the non-discrimination provisions of this title. Upon filing by a competing telecommunications service provider of a complaint, such rate adjustment shall become subject to commission review of the adjustment’s compliance with this section and rules promulgated under this section. The commission shall stay the adjustment of rates and enter a final order approving, modifying or rejecting such adjustment within thirty (30) days of the complaint.

(h) Incumbent local exchange telephone companies subject to price regulation may set rates for non-basic services as the company deems appropriate, subject to the limitations set forth in subsections (e) and (g), the non-discrimination provisions of this title, any rules or orders issued by the commission pursuant to § 65-5-108(c) and upon prior notice to affected customers. Rates for call waiting service provided by an incumbent local exchange telephone company subject to price regulation shall not exceed, for a period of four (4) years from the date the company becomes subject to such regulation, the maximum rate in effect in the state for such service on January 1, 2009; provided, however, that the maximum rate shall not apply to companies becoming subject to that regulation after June 1, 2009.

(i) Incumbent local exchange telephone companies subject to price regulation are not required to seek regulatory approval of their depreciation rates or schedules.

(j) For any incumbent local exchange telephone company electing price regulation under subsection (c), the commission shall conduct an audit to assure that the Tennessee public utility commission 3.01 report accurately reflects, in all material respects, the incumbent local exchange telephone company’s achieved results in accordance with generally accepted accounting principles as adopted in Part 32 of the uniform system of accounts, and the ratemaking adjustments to operating revenues, expenses and rate base used in the commission’s most recent order applicable to the incumbent local exchange telephone company. Nothing herein is to be construed to diminish the audit powers of the commission; provided, however, that such an audit shall not be conducted for a local exchange telephone company electing price regulation after June 1, 2009.

(k) Incumbent local exchange telephone companies subject to price regulation shall maintain their commitment to the FYI Tennessee master plan to the completion of the funded requirements with any alterations to the plan to be approved by the commission.

(l)(1) Any nonincumbent certificated provider of local exchange telephone or intrastate long distance telephone service or any incumbent certificated provider of local exchange or intrastate long distance telephone service that has elected price regulation pursuant to subsections (a)–(k) may, in its sole discretion, elect to operate pursuant to market regulation, by filing notice of its intent to do so with the commission, which shall be effective immediately
upon filing.

(2) For purposes of the rural exemption under 47 U.S.C. § 251 only, the election to operate pursuant to market regulation by a rural incumbent certificated provider of local exchange or intrastate long distance telephone service, as provided in this section, shall constitute an acknowledgement that a bona fide request for interconnection or services is not unduly economically burdensome, is technically feasible, will not present a risk of a significant adverse economic impact on users of telecommunications services generally, is consistent with 47 U.S.C. § 254 and is consistent with the public interest, convenience and necessity. This subdivision (l)(2) shall not apply to any telephone cooperative organized pursuant to § 65-29-102.

(m) Upon election of market regulation by a certificated provider, the provider shall be exempt from all commission jurisdiction, including, but not limited to, state-based regulation of retail pricing or retail operations, except as defined in subsection (n). Notwithstanding the limitations on commission jurisdiction over market-regulated companies under state law as set forth in this section, it is the express intent of the general assembly that the Tennessee public utility commission is authorized as a matter of state law to receive any jurisdiction delegated to it by the federal 1996 Telecommunications Act, in 47 U.S.C. § 214(e), or federal communications commission (FCC) orders or rules, including, without limitation, jurisdiction granted to hear complaints regarding anti-competitive practices, to set rates, terms and conditions for access to unbundled network elements and to arbitrate and enforce interconnection agreements. In addition, the commission shall continue to exercise its jurisdiction in its role as a dispute resolution forum to hear complaints between certificated carriers, including complaints to prohibit anti-competitive practices and to issue orders to resolve such complaints. The commission shall interpret and apply federal, not state, substantive law, which is hereby adopted so that such law is applicable to intrastate services for the purpose of adjudicating such state complaints. The commission shall adjudicate and enforce such claims in accordance with state procedural law and rules, including the enforcement and penalty provisions of § 65-4-120. No claim shall be brought to the Tennessee public utility commission as to which the FCC has exclusive jurisdiction. All complaints brought between carriers pursuant to this section shall be resolved by final order of the commission within one hundred eighty (180) days of the filing of the complaint.

(n) A certificated provider electing market regulation shall be subject to the jurisdiction of the commission only when:

(1) The commission is exercising its jurisdiction as described in subsection (m);

(2) The commission is acting with respect to enforcement or modification of any wholesale self effectuating enforcement mechanism plan in place as of January 1, 2009; provided, that such actions are consistent with federal telecommunications law;

(3) The commission is assessing and collecting inspection fees calculated in accordance with chapter 4, part 3 of this title and election of market regulation shall not alter the character of any intrastate revenue or remove any source of intrastate revenue formerly included within gross receipts and used for purposes of assessment of the fees;

(4) The commission is exercising jurisdiction over video service franchises pursuant to the Competitive Cable and Video Services Act, compiled in title
7, chapter 59, part 3;

(5) The commission is exercising jurisdiction respecting underground facilities damage prevention;

(6) The commission is exercising jurisdiction respecting the Tennessee relay center services or the Tennessee Devices Access Program pursuant to § 65-21-115;

(7) The commission is exercising jurisdiction respecting the small and minority-owned business participation plan pursuant to § 65-5-112;

(8) The commission is exercising jurisdiction respecting universal service funding pursuant to § 65-5-107;

(9) The commission is exercising jurisdiction respecting intrastate switched access service;

(10) The commission is exercising jurisdiction respecting extensions of facilities pursuant to § 65-4-114(2), except that no market-regulated carrier shall be subject to the regulatory commission jurisdiction in this subdivision (n)(10) in any wire center or geographic area the carrier designates by filing notice of such designation with the regulatory commission. Such notice shall be effective immediately upon filing and not subject to regulatory commission review;

(11) The commission is exercising jurisdiction pursuant to § 65-4-125; provided, however, that the commission shall exercise its jurisdiction under subsections (a) or (b) only in connection with a complaint.

(o) Incumbent local exchange providers that have elected market regulation shall not be entitled to the limitation on commission jurisdiction in subsection (n) with respect to those residential local exchange telecommunications services that are offered in exchanges with less than three thousand (3,000) access lines or, for carriers who serve more than one million (1,000,000) access lines in this state, those exchanges with access line counts and calling areas that would result in classification as rate group 1 or 2 under any such carrier’s tariff in effect on January 1, 2009, and that are offered as single, individually priced services at a rate-group specific price rather than a state-wide or territory-wide price, except as follows:

(1) Upon petition by a market-regulated provider, the commission may order that such services shall be subject to the limitations on jurisdiction in subsection (n) by showing that each exchange has at least two (2) nonaffiliated telecommunications providers that offer service to customers in each zone rate area of each exchange;

(2) When counting the number of providers for the purpose of evaluating the competition standard in subdivision (o)(1), cable television providers that offer telephone and broadband services to residential customers may be included. Nonaffiliated providers of wireless service may be included in the count of providers but shall only count as one (1) provider regardless of the number of wireless providers. Nonaffiliated providers of voice over Internet protocol service shall not be counted for the purpose of evaluating the competitive exemption for residential service, unless the carrier seeking exemption offers a data service capable of supporting voice over Internet protocol service and does not require the purchase of voice telephony products to buy the data service. At least one (1) provider must be facilities-based and currently serving residential customers;

(3) When the petitioning party shows facts satisfying the competition standard set forth in subdivision (o)(1), the petitioner shall be entitled to a
rebuttable presumption that the competition standard is satisfied;

(4) The petition shall be subject to an accelerated schedule. The commission must issue its decision on the petition, including its reasons, within ninety (90) days of the filing of the petition;

(5) Unregulated providers of service shall not be required to participate in the commission’s docket considering the petition, but, to the extent such competitors intervene, they shall be required to provide discovery responses regarding the activities of the unregulated provider in such rate groups or exchanges. To the extent the petitioner seeks, but is unable to obtain discovery response from intermodal or unregulated providers regarding the competition present in such rate groups or exchanges, the petitioner shall be entitled to a rebuttable presumption that the unregulated provider is offering service in the area that is the subject of the petition;

(6) Whether or not such a petition is filed or granted, the limitations on commission jurisdiction set forth in subsection (n) shall automatically become applicable to all services of a market-regulated provider as of January 1, 2015; and

(7) The petition provided for in this subsection (o) shall be filed no earlier than one (1) year following May 21, 2009.

(p) Notwithstanding this section, providers that elect market regulation shall remain subject to the Tennessee Consumer Protection Act, compiled in title 47, chapter 18.

(q) Each year the commission shall prepare and submit to the general assembly a report describing the competitive nature of the communications market in Tennessee.

(1) The report shall, at a minimum, contain the following information:

(A) The number of telecommunications providers, including the technology used to provide service;

(B) The number of providers by county serving residential subscribers;

(C) The number of providers by county serving business subscribers; and

(D) The number of customers by customer type.

(2) In preparing the report, the commission shall rely on information filed with the commission or available as public information. The commission shall invite all providers of telecommunications services, including companies operating under market regulation, price cap regulation pursuant to this section, rate of return regulation, competitive carriers, wireless carriers, carriers offering voice over Internet protocol service, cable operators or other carriers known to provide such service in this state, to provide voluntary reports supplying information relating to the items in subdivision (q)(1) and relating to the services and products offered in this state and any other information the provider volunteers concerning future plans for deployment, new services, new technology or the scope of competition.

(r) In the event that a carrier has elected market regulation and later chooses to exit the business of providing local exchange telephone service in an exchange by selling all of its network in that exchange to another entity, then the following shall apply:

(1) If the purchasing entity is a certificated carrier of local exchange telephone service in this state, then no regulatory requirements shall apply, except that nothing in this section shall preclude the exercise of commission jurisdiction as set forth in subsection (m); and
(2) Any purchasing entity that applies for a certificate in connection with a sale of the type described in this section shall be subject to no greater standards than those applied by the commission for other entities seeking certification pursuant to § 65-4-201; and a commission order granting or denying the certificate, including appropriate findings of fact and conclusions of law, shall be entered no later than thirty (30) days from the filing of the application.

(s) Notwithstanding any other laws to the contrary, including, but not limited to, subsections (c) and (j), the earnings of an incumbent local exchange company operating under rate of return regulation shall not be considered in setting initial rates under this section for an incumbent local exchange company implementing a price regulation plan after January 1, 2009.

(t) Notwithstanding any law to the contrary, any certificated provider of local exchange telephone service subject to market regulation may, at its election, file a tariff with the commission governing the rates, terms and conditions of any of its services. Such filed tariff shall become effective upon filing and be deemed approved, unless rejected by the commission upon finding that the tariff violates applicable law within twenty-one (21) days of filing. The approval of a tariff under this subsection (t) shall constitute publication and notice to consumers of the provisions of the tariff, specifically those provisions governing carrier and consumer liability, for purposes of the filed rate doctrine. Unless rejected as provided herein, such tariffs shall constitute binding tariffs to the same extent as tariffs of other providers not subject to market regulation, including application of the filed rate doctrine, and shall be subject to the rules and regulations of the commission governing customer notices to the same extent as such rules apply to providers not subject to market regulation.

(u) The regulatory commission is prohibited from creating any new programs mandating discounts on retail telecommunications services or equipment without providing reimbursement to carriers. Any such unfunded discount program mandated by rules or orders of the regulatory commission or public service commission that was in place as of March 26, 2013, shall terminate sixty (60) days following March 26, 2013. Nothing in this subsection (u) shall apply to existing regulatory commission programs providing services for individuals who are deaf or hard of hearing.

(v) The regulatory commission shall not impose any requirements relating to issuance or maintenance of a certificate pursuant to § 65-4-201 on any market-regulated entity or on any affiliate of a market-regulated entity.


(a) The deployment, implementation, or use of a motor carrier safety improvement by or as required by a motor carrier or its related entity, including by contract, shall not be considered when evaluating an individual’s status as an employee or independent contractor, or as a jointly employed employee, under any state law.

(b) For purposes of this section, “motor carrier safety improvement” means any device, equipment, software, technology, procedure, training, policy, program, or operational practice intended and primarily used to improve or facilitate any of the following:

(1) Compliance with traffic safety or motor carrier safety laws;
(2) Safety of a motor vehicle;
(3) Safety of the operator of a motor vehicle; or
(4) Safety of third-party users of public roadways.


(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 condem-
nation 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 may make contributions for bona fide charitable purposes and accept excess receipts pursuant to programs approved by the board of directors, which programs may include, but are not limited to, programs in which bills for electric power are rounded up to the next dollar when the amount of any excess receipt due to rounding is shown as a separate line on the electric bill.

(2) Excess receipts accepted by a cooperative pursuant to programs authorized by subdivision (d)(1) are not considered revenue to the cooperative and the cooperative may only use the excess receipts for charitable purposes.

(3) This subsection (d) prohibits discrimination by a cooperative in the distribution of excess receipts 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.

(4)(A) A cooperative that establishes a program authorized by subdivision (d)(1) on or after January 1, 2021, shall not enroll any customer into the program without the express consent of the customer.

(B) A customer who is enrolled in a program authorized by subdivision (d)(1) may opt out of the program by providing notice to the cooperative of the customer's desire to cease participation in the program.

(C) Upon receiving an opt-out notice from a customer, the cooperative shall remove the customer from enrollment in the program no later than the first day of the customer's next regular billing cycle that begins no fewer than thirty (30) days after the date of the customer's opt-out notice.

(5)(A) Any cooperative that on June 3, 2019, utilizes a program authorized by subdivision (d)(1) and operates the program on an opt-out basis shall send a written notice to each cooperative customer no later than November 1, 2020, that contains, but is not limited to, the following information:
(i) A statement that the cooperative utilizes a program authorized by subdivision (d)(1), the program is operated on an opt-out basis, and a description of the program;

(ii) Notification that a customer whose bill is currently rounded up by the cooperative has the right to opt out of participation in the program; and

(iii) Contact information for the cooperative and instructions on how the customer may contact the cooperative to opt out of participation in the program.

(B) The written notice required by this subdivision (d)(5) may be provided to the customer by electronic means and may accompany a regular billing statement, at the discretion of the cooperative.

(C) A cooperative that on June 3, 2019, utilizes a program authorized by subdivision (d)(1) and operates the program on an opt-out basis that fails to send the notice required by this subdivision (d)(5) shall, on and after January 1, 2021, cease operating the program on an opt-out basis and shall not operate a program unless operated in compliance with subdivision (d)(4).

(6) Any cooperative that utilizes a program authorized by subdivision (d)(1) and that maintains a website that is accessible by the general public shall publish in a conspicuous location on the website by November 1, 2020, and throughout the duration of the cooperative’s utilization of the program, the following information:

(A) A statement that the cooperative utilizes a program authorized by subdivision (d)(1) and a description of the program;

(B) Notification that a customer whose bill is currently rounded up by the cooperative has the right to opt out of participation in the program; and

(C) Contact information for the cooperative and instructions on how the customer may contact the cooperative to opt into or out of participation in the program.

65-25-128. [Repealed.]

65-25-134. Telecommunications services.

(a)(1) Notwithstanding § 7-59-316, every cooperative has the power and is authorized, acting through its board of directors, to acquire, construct, own, improve, operate, lease, maintain, sell, mortgage, pledge, or otherwise dispose of any system, plant or equipment for the provision of telephone, telegraph, voice over internet protocol, telecommunications services, or any other like system, plant, or equipment within or without the service area of the cooperative in compliance with chapters 4 and 5 of this title and all other applicable state and federal laws, rules, and regulations. Notwithstanding § 65-4-101(6)(A)(vi) or any other provision of this code or of any private act to the contrary, to the extent that any cooperative provides any of the services authorized by this subdivision (a)(1), the cooperative shall be subject to regulation by the Tennessee public utility commission in the same manner and to the same extent as other certificated providers of the services authorized by this subsection (a), including, without limitation, rules or orders governing anti-competitive practices, and shall be considered as and
have the duties of a public utility, as defined in § 65-4-101, but only to the extent necessary to effect such regulation and only with respect to the cooperative’s provision of the services authorized by this subdivision (a)(1).

(2) Every cooperative has the power and is authorized, acting through its board of directors, to acquire, construct, own, improve, operate, lease, maintain, sell, mortgage, pledge, or otherwise dispose of any system, plant or equipment for the provision of broadband internet access, internet protocol-based video, video programming, or related or similar services, or any other like system, plant, or equipment within the service area of the cooperative in compliance with chapters 4 and 5 of this title and all other applicable state and federal laws, rules, and regulations, including, but not limited to, the requirement to obtain a franchise as set forth in § 7-59-304. Notwithstanding § 65-4-101(6)(A)(vi) or any other provision of this code or of any private act to the contrary, to the extent that any cooperative provides any of the services authorized by this subdivision (a)(2), the cooperative shall furnish the services on an area coverage basis, as defined in § 65-25-102, and shall be subject to regulation by the Tennessee public utility commission in the same manner and to the same extent as other providers of broadband internet access, internet protocol-based video, video programming, or related or similar services, including, without limitation, rules or orders governing anti-competitive practices, and shall be considered as and have the duties of a public utility, as defined in § 65-4-101, but only to the extent necessary to effect such regulation and only with respect to the cooperative’s provision of the services authorized by this subdivision (a)(2).

In the event that a cooperative acquires, merges with, or consolidates with another entity that provides any one (1) of the services authorized by this subdivision (a)(2) in a geographic location concurrent with or adjacent to the electric service area of the cooperative, then, subsequent to such transaction, nothing in this section prohibits the electric cooperative from providing the services authorized by this subdivision (a)(2) in the geographic service territory in which the acquired or merged entity was authorized to provide such services prior to the merger, acquisition, or consolidation.

(3) A cooperative that elects to provide services authorized by subdivision (a)(2) shall provide other providers of such services non-discriminatory access to locate their equipment for the provision of such services on infrastructure or poles owned or controlled by the cooperative, subject to the terms of any pole attachment agreements between the cooperative and the other provider, the American National Standard Electric Safety Code described in § 68-101-104, and the structural integrity of the infrastructure or pole.

(b)(1) A cooperative providing any of the services authorized by subsection (a) shall not provide subsidies for such services and shall administer, operate, and maintain the electric system separately in all respects, including establishing and maintaining a separate fund for the revenues from electric operations, and shall not directly or indirectly mingle electric system funds or accounts, or otherwise consolidate or combine the financing of the electric system, with those of any other of its operations.

(2) A cooperative providing any of the services authorized by subdivision (a)(2) shall administer and operate such services as a separate subsidiary.

(3) Notwithstanding the limitations set out in this subsection (b), a cooperative providing the services authorized by subsection (a) is authorized
(A) Dedicate a reasonable portion of the electric plant to the provision of such services, the costs of which shall be allocated to such services in the separate accounting required under this subsection (b); and

(B) Lend funds, at a rate of interest not less than the highest rate then earned by the cooperative on invested electric plant funds, to acquire, construct, and provide working capital for the system, plant, and equipment necessary to provide any of the services authorized under subsection (a); provided, that such interest costs shall be allocated to the cost of such services in the separate accounting required under this subsection (b).

(c)(1) To the extent that it provides any of the services authorized by subsection (a), a cooperative has all the powers, obligations and authority granted entities providing telecommunications services under applicable laws of the United States or this state. To the extent that such authority and powers do not conflict with title 65, chapter 4 or 5, and any rules, regulations, or orders issued thereunder, a cooperative providing any of the services authorized by subsection (a) has all the authority and powers with respect to such services as are enumerated in this chapter.

(2) Notwithstanding the authorization granted in subsection (a), a cooperative shall not provide any of the services authorized by subsection (a) unrelated to its electric services within the service area of an entity in existence and operating as a telephone cooperative on April 24, 2017, with fewer than one hundred thousand (100,000) total lines organized and operating under chapter 29 of this title, and therefore shall adhere to those regulations of the 1995 Tennessee Telecommunications Act and rules of the Tennessee public utility commission, which are applicable to the telephone cooperatives, and specifically §§ 65-4-101 and 65-29-130.

(d) For regulatory purposes, a cooperative shall allocate to the costs of providing any of the services authorized by subsection (a):

(1) An amount for attachments to poles owned by the cooperative equal to the highest rate charged by the cooperative to any other person or entity for comparable pole attachments; and

(2) Any applicable rights-of-way fees, rentals, charges, or payments required by state or local law of a non-governmental corporation that provides the identical services.

(e)(1) Nothing in this chapter shall be construed to allow a cooperative to provide any service for which a license, certification, or registration is required under title 62, chapter 32, part 3.

(2) Nothing in this chapter shall allow a cooperative to provide any service for which a license, certification, or registration is required under title 62, chapter 32, part 3, or to provide pager service.

(f) This chapter supersedes any conflicting law.

(g) It is unlawful for a cooperative to use unfair or anticompetitive practices prohibited by applicable state or federal law. Such practices shall include, but are not limited to, predatory pricing, collusion, and tying.

(h) Any person who has been damaged as a result of a violation of this section may bring a civil action in chancery court for injunctive or declaratory relief against the violation.
65-32-104. Policy governing discontinuation of service for nonpayment of service.

The utility governing body, in conjunction with the utility management team, shall establish a policy governing the discontinuation of service for nonpayment of service. The policy must be in compliance with service practice standards and best practices for similarly situated utilities.

65-32-105. [Repealed.]

66-6-101. Designation of geodetic survey system.

(a) The most recent system of plane coordinates which has been established by the United States Department of Commerce, National Oceanic and Atmospheric Administration’s National Geodetic Survey, based on the National Spatial Reference System, and known as the State Plane Coordinate System, for defining and stating the geographic positions or locations of points on the surface of the earth within the State of Tennessee shall hereafter be known as the Tennessee State Plane Coordinate System.

(b) The system of plane coordinates, known as the North American Datum of 1983, which has been established by the United States Department of Commerce, National Oceanic and Atmospheric Administration’s National Geodetic Survey, formerly the United States Coast and Geodetic Survey, for defining and stating the geographic positions or locations of points on the surface of the earth within this state is hereafter to be known and designated as the Tennessee Coordinate System of 1983.

(c) The system of plane coordinates which was established in 1927 by the United States Coast and Geodetic Survey for defining and stating the positions or locations of points on the surface of the earth within this state is hereafter to be known and designated as the Tennessee Coordinate System of 1927.

(d) For the purpose of the use of either system, this state has one (1) zone as defined by the National Geodetic Survey.

(e) After December 31, 2022, the “Tennessee State Plane Coordinate System” is the sole system recognized and utilized in Tennessee for the purposes of this chapter. Any use prior to December 31, 2022, may continue to use the Tennessee Coordinate System of 1927 or the Tennessee Coordinate System of 1983 in its applications relative to redistricting.

66-6-102. Coordinates used.

The plane coordinate values for a point on the earth’s surface, used to express the geographic position or location of such point, shall consist of two (2) distances expressed in United States survey feet and decimals of a foot when using the Tennessee Coordinate System of 1927, expressed in either United States survey feet and decimals of a foot or meters and decimals of a meter when using the Tennessee Coordinate System of 1983, and expressed in either United States survey feet and decimals of a foot or meters and decimals of a meter when using the Tennessee State Plane Coordinate System. When the values are expressed in United States survey feet, they shall be used as the standard foot for the Tennessee State Plane Coordinate System. One of these distances, to be known as the “East X-coordinate,” shall give the distance east of the Y axis; the other, to be known as the “North Y-coordinate,” shall give the
distance north of the X axis. The Y axis of any zone shall be parallel with the central meridian of that zone. The X axis of any zone shall be at right angles to the central meridian of that zone.

66-6-104. Proximity to horizontal control monuments required for use of coordinates.

Unless established by Global Navigation Satellite Systems (GNSS) methods, no coordinates based on the systems of plane coordinates defined in this chapter, purporting to define the position of a point on a land boundary, shall be presented to be recorded in any public land records or deed records unless such point is within ten kilometers (10 km) of a horizontal control monument existing or newly established in conformity with the standards of accuracy for first or second order geodetic surveying as prepared and published by the federal geodetic control committee of the United States department of commerce. Standards of the federal geodetic control committee or its successor in force on the date of such survey shall apply. The accuracy limitations described in this section may be modified by any governmental agency to meet local conditions.

66-6-105. Description of location of survey stations or land boundary corners — Reliance on system not required.

(a) For purposes of describing the location of any survey station or land boundary corner in this state, it is considered a complete, legal, and satisfactory description of such location to give the position of such survey station or land boundary corner on any system of plane coordinates defined in this chapter; provided, that any person choosing to use a system of plane coordinates to describe any such survey station or land boundary after December 31, 1992, shall use the Tennessee Coordinate System of 1983 and after December 31, 2022, shall use the Tennessee State Plane Coordinate System.

(b) Nothing contained in this chapter requires a purchaser or mortgagee of real property to rely wholly on a property description, any part of which depends exclusively upon any Tennessee coordinate system.

66-6-106. Use of term system on documents — Designation of system used.

(a) The terms Tennessee Coordinate System of 1927, Tennessee Coordinate System of 1983, or Tennessee State Plane Coordinate System must not be used on any map, report of survey, or other document, unless the coordinates contained within such document are based on the Tennessee coordinate system as defined in this chapter.

(b) Any document containing coordinates based upon a system of plane coordinates defined in this chapter shall contain a statement that indicates whether the Tennessee Coordinate System of 1927, the Tennessee Coordinate System of 1983, or the Tennessee State Plane Coordinate System was used.

(c) This chapter must not be construed to prohibit the appropriate use of other datums and other geodetic reference networks.
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) [Deleted by 2019 amendment.]

66-7-111. Exception to policy prohibiting or limiting, or requiring payment for, animals or pets for tenant or prospective tenant with disability who requires use of service animal or support animal.

(a) As used in this section:
   (1) “Disability” means:
      (A) A physical or mental impairment that substantially limits one (1) or more major life activities;
      (B) A record of an impairment described in subdivision (a)(1)(A); or
      (C) Being regarded as having an impairment described in subdivision (a)(1)(A);
   (2) “Health care” means any care, treatment, service, or procedure to
maintain, diagnose, or treat an individual’s physical or mental condition;

(3) “Healthcare provider” means a person who is licensed, certified, or otherwise authorized or permitted by the laws of any state to administer health care in the ordinary course of business or practice of a profession;

(4) “Reliable documentation” means written documentation provided by:

(A) A healthcare provider with actual knowledge of an individual’s disability;

(B) An individual or entity with a valid, unrestricted license, certification, or registration to serve persons with disabilities with actual knowledge of an individual’s disability; or

(C) A caregiver, reliable third party, or a governmental entity with actual knowledge of an individual’s disability;

(5) “Service animal” means a dog or miniature horse that has been individually trained to work or perform tasks for an individual with a disability; and

(6) “Support animal” means an animal selected to accompany an individual with a disability that has been prescribed or recommended by a healthcare provider to work, provide assistance, or perform tasks for the benefit of the individual with a disability, or provide emotional support that alleviates one (1) or more identified symptoms or effects of the individual’s disability.

(b) A tenant or prospective tenant with a disability who requires the use of a service animal or support animal may request an exception to a landlord’s policy that prohibits or limits animals or pets on the premises or that requires any payment by a tenant to have an animal or pet on the premises.

(c) A landlord who receives a request made under subsection (b) from a tenant or prospective tenant may ask that the individual, whose disability is not readily apparent or known to the landlord, submit reliable documentation of a disability and the disability-related need for a service animal or support animal. If the disability is readily apparent or known but the disability-related need for the service animal or support animal is not, then the landlord may ask the individual to submit reliable documentation of the disability-related need for a service animal or support animal.

(d) A landlord who receives reliable documentation under subsection (c) may verify the reliable documentation. However, nothing in this subsection (d) authorizes a landlord to obtain confidential or protected medical records or confidential or protected medical information concerning a tenant’s or prospective tenant’s disability.

(e) A landlord may deny a request made under subsection (b) if a tenant or prospective tenant fails to provide accurate, reliable documentation that meets the requirements of subsection (c), after the landlord requests the reliable documentation.

(f)(1) It is deemed to be material noncompliance and default by the tenant with the rental agreement, if the tenant:

(A) Misrepresents that there is a disability or disability-related need for the use of a service animal or support animal; or

(B) Provides documentation under subsection (c) that falsely states an animal is a service animal or support animal.

(2) In the event of any violation under subdivision (f)(1), the landlord may terminate the tenancy and recover damages, including, but not limited to, reasonable attorney’s fees.

(g) Notwithstanding any other law to the contrary, a landlord is not liable
for injuries by a person’s service animal or support animal permitted on the premises as a reasonable accommodation to assist the person with a disability pursuant to the Fair Housing Act, as amended, (42 U.S.C. §§ 3601 et seq.); the Americans with Disabilities Act of 1990 (42 U.S.C. §§ 12101 et seq.); Section 504 of the Rehabilitation Act of 1973, as amended, (29 U.S.C. § 701); or any other federal, state, or local law.

(h) Only to the extent it conflicts with federal or state law, this section does not apply to public housing units owned by a governmental entity.

66-21-108. [Repealed]

66-28-406. Exception to policy prohibiting or limiting, or requiring payment for, animals or pets for tenant or prospective tenant with disability who requires use of service animal or support animal.

(a) As used in this section:

   (1) “Disability” means:

      (A) A physical or mental impairment that substantially limits one (1) or more major life activities;
      (B) A record of an impairment described in subdivision (a)(1)(A); or
      (C) Being regarded as having an impairment described in subdivision (a)(1)(A);

   (2) “Health care” means any care, treatment, service, or procedure to maintain, diagnose, or treat an individual’s physical or mental condition;

   (3) “Healthcare provider” means a person who is licensed, certified, or otherwise authorized or permitted by the laws of any state to administer health care in the ordinary course of business or practice of a profession;

   (4) “Reliable documentation” means written documentation provided by:

      (A) A healthcare provider with actual knowledge of an individual’s disability;
      (B) An individual or entity with a valid, unrestricted license, certification, or registration to serve persons with disabilities with actual knowledge of an individual’s disability; or
      (C) A caregiver, reliable third party, or a governmental entity with actual knowledge of an individual’s disability;

   (5) “Service animal” means a dog or miniature horse that has been individually trained to work or perform tasks for an individual with a disability; and

   (6) “Support animal” means an animal selected to accompany an individual with a disability that has been prescribed or recommended by a healthcare provider to work, provide assistance, or perform tasks for the benefit of the individual with a disability, or provide emotional support that alleviates one (1) or more identified symptoms or effects of the individual’s disability.

(b) A tenant or prospective tenant with a disability who requires the use of a service animal or support animal may request an exception to a landlord’s policy that prohibits or limits animals or pets on the premises or that requires any payment by a tenant to have an animal or pet on the premises.

(c) A landlord who receives a request made under subsection (b) from a tenant or prospective tenant may ask that the individual, whose disability is...
not readily apparent or known to the landlord, submit reliable documentation of a disability and the disability-related need for a service animal or support animal. If the disability is readily apparent or known but the disability-related need for the service animal or support animal is not, then the landlord may ask the individual to submit reliable documentation of the disability-related need for a service animal or support animal.

(d) A landlord who receives reliable documentation under subsection (c) may verify the reliable documentation. However, nothing in this subsection (d) authorizes a landlord to obtain confidential or protected medical records or confidential or protected medical information concerning a tenant's or prospective tenant's disability.

(e) A landlord may deny a request made under subsection (b) if a tenant or prospective tenant fails to provide accurate, reliable documentation that meets the requirements of subsection (c), after the landlord requests the reliable documentation.

(f)(1) It is deemed to be material noncompliance and default by the tenant with the rental agreement, if the tenant:

(A) Misrepresents that there is a disability or disability-related need for the use of a service animal or support animal; or

(B) Provides documentation under subsection (c) that falsely states an animal is a service animal or support animal.

(2) If the breach for which notice was given in subdivision (f)(1), the landlord may terminate the tenancy and recover damages, including, but not limited to, reasonable attorney's fees.

(g) Notwithstanding any other law to the contrary, a landlord is not liable for injuries by a person's service animal or support animal permitted on the premises as a reasonable accommodation to assist the person with a disability pursuant to the Fair Housing Act, as amended, (42 U.S.C. §§ 3601 et seq.); the Americans with Disabilities Act of 1990 (42 U.S.C. §§ 12101 et seq.); Section 504 of the Rehabilitation Act of 1973, as amended, (29 U.S.C. § 701); or any other federal, state, or local law.

(h) Only to the extent it conflicts with federal or state law, this section does not apply to public housing units owned by a governmental entity.

66-28-505. Noncompliance by tenant — Failure to pay rent.

(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)(1) It is deemed to be material noncompliance and default by the tenant with the rental agreement, if the tenant:

(A) Misrepresents that there is a disability or disability-related need for the use of a service animal or support animal; or

(B) Provides documentation under § 66-28-406(c) that falsely states an animal is a service animal or support animal.

(2) As used in this subsection (f), “service animal” and “support animal” have the same meanings as the terms are defined in § 66-28-406(a).

(3) In the event of any violation under subdivision (f)(1), the landlord may terminate the tenancy and recover damages, including, but not limited to, reasonable attorney’s fees.

(4) Only to the extent it conflicts with federal or state law, this subsection (f) does not apply to public housing units owned by a governmental entity.

66-29-102. Part definitions.

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

(1) “Apparent owner” means a person whose name appears on the records.
of a holder as the owner of property held, issued, or owing by the holder;

(2) “Business association” means a for-profit or nonprofit corporation, joint stock company, investment company other than an investment company registered under the Investment Company Act of 1940 (15 U.S.C. §§ 80a-1 et seq.), partnership, unincorporated association, joint venture, limited liability company, business trust, trust company, land bank, safe deposit company, safekeeping depository, financial organization, insurance company, federally chartered entity, utility, sole proprietorship, or other business entity;

(3) “Confidential information” has the same meaning as described in § 66-29-178;

(4) “Domicile” means:
   (A) For a corporation, the state of its incorporation;
   (B) For a business association, other than a corporation, whose formation requires a filing with a state, the state of its filing;
   (C) For a federally chartered entity or an investment company registered under the Investment Company Act of 1940, the state of its home office; and
   (D) For any other holder, the state of its principal place of business;

(5) “Electronic” means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities;

(6) “Electronic mail” means any communication of information by electronic means that is automatically retained and stored and may be readily accessed or retrieved;

(7) “Financial organization” means a savings and loan association, building and loan association, savings bank, industrial bank, bank, banking organization, or credit union;

(8) “Game-related digital content” means digital content that exists only in an electronic game or electronic-game platform. “Game-related digital content”:
   (A) Includes:
      (i) Game-play currency such as a virtual wallet, even if denominated in United States currency; and
      (ii) The following if for use or redemption only within that game or platform or another electronic game or electronic-game platform:
         (a) Points sometimes referred to as gems, tokens, gold, and similar names; and
         (b) Digital codes; and
   (B) Does not include an item that the issuer:
      (i) Permits to be redeemed for use outside of a game or platform for:
         (a) Money; or
         (b) Goods or services that have more than minimal value; or
      (ii) Otherwise monetizes for use outside of a game or platform;

(9) “Gift card”:
   (A) Means a stored-value card:
      (i) The value of which does not expire;
      (ii) That may be decreased in value only by redemption for merchandise, goods, or services; and
      (iii) That, unless required by law, must not be redeemed for or converted into money or otherwise monetized by the issuer; and
   (B) Includes a prepaid commercial mobile radio service, as that term is
defined in 47 CFR 20.3;
(10) “Holder” means a person obligated to hold for the account of, or to deliver or pay to, the owner of property that is subject to this part;
(11) “Insurance company” means an insurer, not-for-profit hospital and medical corporation regulated under title 56, chapter 29, health maintenance organization, fraternal benefit society, or any person or entity required to obtain a certificate of authority or similar license from the department of commerce and insurance under title 56 in order to issue or enter into contracts of insurance in this state. “Insurance company” also includes any person or entity that has regulatory approval in its state of domicile to issue or enter into contracts of insurance and that would be required to obtain a certificate of authority or similar license from the department of commerce and insurance under title 56 if it issued or entered into contracts of insurance in this state;
(12) “Local government” means any metropolitan government, municipality, or county located in this state;
(13) “Loyalty card” means a record given without direct monetary consideration under an award, reward, benefit, loyalty, incentive, rebate, or promotional program that may be used or redeemed only to obtain goods or services or a discount on goods or services. “Loyalty card” does not include a record that may be redeemed for money or otherwise monetized by the issuer;
(14) “Military medal” means any decoration or award that may be presented or awarded to a member of the armed forces of the United States or national guard;
(15) “Mineral” means gas, oil, coal, oil shale, other gaseous liquid or solid hydrocarbon, cement material, sand and gravel, road material, building stone, chemical raw material, gemstone, fissionable and nonfissionable ores, colloidal and other clay, steam and other geothermal resources, and any other substance defined as a mineral by any other law of this state;
(16) “Mineral proceeds” means an amount payable for extraction, production, or sale of minerals or, on the abandonment of the amount, the amount that becomes payable after abandonment. “Mineral proceeds” includes an amount payable:
(A) For the acquisition and retention of a mineral lease, including, but not limited to, a bonus, royalty, compensatory royalty, shut-in royalty, minimum royalty, and delay rental;
(B) For the extraction, production, or sale of minerals, including, but not limited to, a net revenue interest, royalty, overriding royalty, extraction payment, and production payment; and
(C) Under an agreement or option, including, but not limited to, a joint operating agreement, unit agreement, pooling agreement, and farm out agreement;
(17) “Money order” means a payment order for a specified amount of money and includes, but is not limited to, an express money order and a personal money order on which the remitter is the purchaser;
(18) “Municipal bond” means a bond of evidence of indebtedness issued by a municipality or other political subdivision of a state;
(19) “Net card value” means the original purchase price or original issued value of a stored-value card, plus amounts added to its original value and minus amounts used and any service charge, fee, or dormancy charge
permitted by law;

(20) “Non-freely transferable security” means a security that cannot be
delivered to the treasurer by the Depository Trust & Clearing Corporation or
a similar custodian of securities providing post-trade clearing and settle-
ment services to financial markets, or that cannot be delivered because there
is no agent to effect transfer. “Non-freely transferable security” includes a
worthless security;

(21) “Owner” means a person who has a legal, beneficial, or equitable
interest in property subject to this part or the person’s legal representative
when acting on behalf of the owner. “Owner” includes:
(A) A depositor, for a deposit;
(B) A beneficiary, for a trust other than a deposit in trust;
(C) A creditor, claimant, or payee, for other property; and
(D) The lawful bearer of a record that may be used to obtain money, a
reward, or a thing of value;

(22) “Payroll card” means a record that evidences a payroll card account,
as that term is defined in 12 CFR 1005.2;

(23) “Person” means an individual, estate, business association, public
corporation, government or governmental subdivision, agency, instrument-
ality, or other legal entity;

(24) “Property” means tangible property described in §§ 66-29-109, 30-2-
702, and 31-6-107 or a fixed and certain interest in intangible property held,
issued, or owed in the course of a holder's business or by a government,
governmental subdivision, agency, or instrumentality. “Property”:
(A) Includes all income from or increments to the property;
(B) Includes property referred to as or evidenced by:
(i) Money, virtual currency, interest, dividend, check, draft, deposit,
or payroll card;
(ii) A credit balance, customer’s overpayment, stored-value card,
security deposit, refund, credit memorandum, unpaid wage, unused
ticket for which the issuer has an obligation to provide a refund, mineral
proceeds, or an unidentified remittance;
(iii) A security, other than:
(a) A worthless security; or
(b) A security that is subject to a lien, legal hold, or restriction
evidenced on the records of the holder or imposed by operation of law,
and that restricts the holder’s or owner’s ability to lawfully receive,
transfer, sell, or otherwise negotiate the security;
(iv) A bond, debenture, note, or other evidence of indebtedness;
(v) Money deposited to redeem a security, make a distribution, or pay
a dividend;
(vi) An amount that has become due and payable by an insurance
company in accordance with the terms of the applicable contract or as
otherwise determined by this part;
(vii) An amount distributable from a trust or custodial fund estab-
lished under a plan to provide health, welfare, pension, vacation,
severance, retirement, death, stock purchase, profit sharing, employee
savings, supplemental unemployment insurance, or similar benefits; and
(C) Does not include:
(i) Game-related digital content;
(ii) A loyalty card;
(iii) An in-store credit for returned merchandise;
(iv) A gift card; or
(v) A transit fare card;
(25) “Putative holder” means a person believed by the treasurer to be a holder, until the person pays or delivers to the treasurer property subject to this part or until a final determination is made that the person is a holder;
(26) “Record” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceiveable form;
(27) “Security” means:
(A) A security interest, as that term is defined in § 47-1-201; or
(B) A security entitlement, as that term is defined in § 47-8-102, including, but not limited to, a customer security account held by a registered broker-dealer, to the extent that the financial assets held in the security account are not registered on the books of the issuer in the name of, payable to the order of, or specifically endorsed to, the person for whom the broker-dealer holds the assets;
(28) “Sign” means, with present intent to authenticate or adopt a record:
(A) To execute or adopt a tangible symbol; or
(B) To attach to or logically associate with the record an electronic symbol, sound, or process;
(29) “State” means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States;
(30) “Stored-value card”:
(A) Means a record evidencing a promise made for consideration by the seller or issuer of the record that goods, services, or money will be provided to the owner of the record equal to the value or amount shown in the record;
(B) Includes:
(i) A record that contains or consists of a microprocessor chip, magnetic strip, or other means for the storage of information, which is prefunded and whose value or amount is decreased on each use and increased by payment of additional consideration; and
(ii) A payroll card; and
(C) Does not include a loyalty card, transit fare card, gift card, or game-related digital content;
(31) “Transit fare card” means any pass or instrument purchased to utilize public transportation facilities or services;
(32) “Treasurer” means the state treasurer;
(33) “Treasurer’s agent” means a person with whom the treasurer contracts to conduct an examination under § 66-29-157 on behalf of the treasurer and an independent contractor of the person. “Treasurer’s agent” includes each individual participating in the examination on behalf of the person or contractor;
(34) “Utility” means a person that owns or operates for public use a plant, equipment, real property, franchise, or license for the following public services:
(A) The transmission of communications or information;
(B) The production, storage, transmission, sale, delivery, or furnishing of electricity, water, steam, or gas; or
(C) The provision of sewage and septic services, trash or garbage services, or recycling disposal;

(35) “Virtual currency” means a digital representation of value used as a medium of exchange, unit of account, or a store of value that is not recognized by the United States as legal tender. “Virtual currency” does not include:

(A) The software or protocols governing the transfer of the digital representation of value;
(B) Game-related digital content; or
(C) A loyalty card or gift card; and

(36) “Worthless security” means a security whose cost of liquidation and delivery would exceed the value of the security on the date a report is due under this part.


(a) Before transfer of a time-share interval and no later than the date of any sales contract, the developer shall provide the intended transferee with a copy of the public offering statement and any amendments and supplements thereto. The contract is voidable by the purchaser until the purchaser has received the public offering statement. The contract is also voidable by the purchaser for ten (10) days from the date of the signing of the contract by the purchaser if the purchaser shall have made an on-site inspection of the time-share project or any component site prior to the signing of the contract, and if the purchaser did not make an on-site inspection of the time-share project or any component site prior to signing the contract, for fifteen (15) days thereafter. Cancellation is without penalty, and all payments made by the purchaser before cancellation must be refunded within thirty (30) days after receipt of the notice of cancellation as provided in subsection (c).

(b) During the applicable rescission period, the developer may cancel the contract of purchase without penalty to either party. The developer shall return all payments due, the purchaser shall return all material received in good condition, reasonable wear and tear excepted. If such materials are not returned, the developer may deduct the cost of the same and return the balance to the purchaser.

(c) If either party elects to cancel a contract pursuant to subsection (a) or (b), that party may do so by hand delivering notice thereof to the other party within the designated period for voiding such contract or by mailing notice thereof by prepaid United States mail, postmarked anytime within the designated period for voiding such contract, to the other party or to such party’s agent for service of process. The rescission rights set forth in subsections (a) and (b) may not be waived by either the purchaser or developer.

67-4-409. Recordation tax.

(a) Transfers of Realty. On all transfers of realty, whether by deed, court deed, decree, partition deed, or other instrument evidencing transfer of any interest in real estate, there shall be paid for the privilege of having the same recorded a tax, for state purposes only, of thirty-seven cents (37¢) per one hundred dollars ($100), as follows:
(1) On the transfer of a freehold estate, the tax shall be based on the consideration for the transfer, or the value of the property, whichever is greater. “Value of the property,” as used in this section, means the amount that the property transferred would command at a fair and voluntary sale, and no other value;

(2) No transfer tax shall be due or paid on the transfer of a leasehold estate;

(3) No such tax shall be levied on the transfer of any real estate where such:

(A) Is creation or dissolution of a tenancy by the entirety:
   (i) By the conveyance from one (1) spouse to the other;
   (ii) By the conveyance from one (1) spouse or both spouses to the original grantor or grantors in the instrument and the original grantor’s spouse; or
   (iii) By the conveyance from one (1) spouse or both spouses to a trustee and immediate reconveyance by the trustee in the same instrument as tenants in common, tenants in common with right of survivorship, joint tenants or joint tenants with right of survivorship;

(B) Are deeds of division in kind of realty formerly held by tenants in common;

(C) Is release of a life estate to the beneficiaries of the remainder interest;

(D) Are deeds executed by an executor to implement a testamentary devise;

(E) Are domestic settlement decrees and/or domestic decrees and/or deeds that are an adjustment of property rights between divorcing parties;

(F) Are transfers by a transferor of real estate to a revocable living trust created by the same transferor or by a spouse of the transferor, or transfers by the trustee of a revocable living trust back to the same transferor or to the transferor’s spouse;

(G) Are deeds executed by the trustee of a revocable living trust to implement a testamentary devise by the trustor of the trust; or

(H) Are deeds executed by the trustee of a testamentary trust or revocable living trust to implement the distribution of the real property to a trust beneficiary or beneficiaries;

(4) In the case of quitclaim deeds, the tax shall be based only on the actual consideration given for that conveyance;

(5) No oath of value shall be required in any transaction that is exempt from tax;

(6) This tax shall be paid by the grantee or transferee of the interest in real estate, as shown on the instrument evidencing the transfer of such interest; and it shall be collected by the register of the county in which the instrument is offered for recordation;

(A) The grantee, the grantee’s agent, or a trustee acting for the grantee shall be required to state under oath upon the face of the instrument offered for record in the presence of the register, or before an officer authorized to administer oaths, the actual consideration or value, whichever is greater, for the transfer of a freehold estate;

(B) The making under oath of any false statement known to be false respecting the consideration or value of property transferred shall be punishable as perjury;
(C) A person who obtains several deeds or other instruments of conveyance for the same transfer of one and the same tract or parcel of real estate shall pay only one (1) state tax with respect to such transfer;

(D) The register is forbidden to record the transfer until this tax has been paid; and

(7) No tax is due under this subsection (a) until the title to the property is transferred by deed.

(b) **Mortgages, Deeds of Trust and Other Instruments.** Prior to the public recordation of any instrument evidencing an indebtedness, including, but not limited to, mortgages, deeds of trust, conditional sales contracts, financing statements filed pursuant to the Uniform Commercial Code, compiled in title 47, and liens on personalty, other than on motor vehicles, there shall be paid a tax, for state purposes only, of eleven and one half cents (11.5¢) on each one hundred dollars ($100) of the indebtedness so evidenced.

(1) The tax shall not be required for the recordation of judgment liens, contractors’ liens, subcontractors’ liens, furnishers’ liens, laborers’ liens, mechanics’ and materialmen’s liens, financing statements filed pursuant to the Uniform Commercial Code, compiled in title 47, that secure an interest solely in investment property, as defined in § 47-9-102(a), as amended by chapter 846, § 1 of the Acts of 2000, and mortgages or deeds of trust issued under the Home Equity Conversion Mortgage Act, as compiled in title 47, chapter 30, and that are labeled on the face under such chapter.

(2) In any case where the consideration or stipulation of indebtedness does not appear on the face of the instrument being offered for record, the recording official shall require a separate statement, to be made under oath, indicating the amount of the indebtedness so secured.

(3) This tax shall be paid to and collected by county registers, the secretary of state, and any other official who may receive any instrument other than for liens on motor vehicles in accordance with the motor vehicle title law of this state, for recordation in accordance with the laws of this state, and registration is forbidden until such tax has been paid.

(4) The incidence of the tax provided by this section is declared to be upon the mortgagor, grantor or debtor, evidenced by the instrument offered for recordation. It shall not, however, apply with respect to the first two thousand dollars ($2,000) of the indebtedness.

(5)(A) As used in this section, “indebtedness” means the principal debt or obligation which is reasonably contemplated by the parties to be included within the terms of the agreement. “Indebtedness” does not include any amount of interest, collection expense including, but not limited to, attorney’s fees and expenses incurred in preserving, protecting, improving, or insuring property which serves as collateral for the indebtedness, or any other amount, other than the principal debt or obligation, for which a debtor becomes liable unless such amount is added to the principal debt or obligation, and is used to calculate additional interest pursuant to refinancing, reamortization, amendment or similar transaction or occurrence.

(B) If the instrument is given to secure the performance by the mortgagor, grantor, debtor or any other person of an obligation other than the payment of a specific sum of money, and a maximum amount secured is not expressed in the instrument, such instrument shall be taxable upon the value of the property covered by the instrument, which value shall be
deemed to be the indebtedness secured by such instrument for such purposes. Such instrument shall not be recorded, unless, at the time of presenting the instrument, there is filed a sworn statement by the owner of the property covered thereby of the value of the property. Such amount shall be the basis of assessing the tax imposed under this subsection (b). No subsequent change in the value of the property shall result in the imposition of additional tax.

(C)(i) Every recorded instrument evidencing an indebtedness must contain, either on the face of the instrument or in an attached sworn statement, the following language: “Maximum principal indebtedness for Tennessee recording tax purposes is $______.” The holder of the indebtedness shall state the amount of the indebtedness, and that amount shall be the basis of assessing the tax imposed by this subsection (b). Such statement may be relied upon only by the department of revenue and by the receiving official charged with the duty of recordation and collection of tax, and such statement shall not constitute notice of any kind to any other party of the amount of indebtedness secured by the instrument.

(ii) Notwithstanding subdivision (b)(5)(C)(i), an instrument described in subdivision (b)(5)(B) shall instead contain, either on the face of the instrument or in an attached sworn statement, the following language: “Secures obligation other than payment of specific sum — valuation statement submitted herewith.”

(iii) Notwithstanding any other law to the contrary, an official charged with the collection of the tax imposed by this subsection (b) shall not record any instrument evidencing an indebtedness, unless it contains the statement required by this subdivision (b)(5)(C) and tax is properly paid, based upon the amount contained in that statement or in the valuation statement, as appropriate.

(D) When the instrument being offered for registration, recording, or filing secures, or evidences the securing of, a line of credit or other indebtedness arising from more than one (1) advance or extension of credit, the amount of which will, or may, vary from time to time, the tax shall be computed and paid on the maximum amount of the indebtedness as stated in the instrument or the accompanying sworn statement, and the reduction or subsequent increasing of the amount of the indebtedness within such limits shall not result in additional tax.

(6) Imposition of a transfer tax as levied under subsection (a) with respect to an instrument evidencing an indebtedness shall not operate to exonerate such instrument from the tax levied under this subsection (b), if such tax would otherwise be appropriate. Furthermore, an instrument evidencing transfer of any interest in real estate that is subject to the transfer tax shall, nevertheless, be subject to the tax levied under this subsection (b) also, when such instrument evidences an indebtedness either by showing in the instrument that a vendor’s lien is retained, or by referring in the instrument to such a lien being evidenced by another instrument not being offered for public recordation.

(7)(A)(i) If some of the property securing the payment of the indebtedness is located in Tennessee and some is located outside of Tennessee, as an optional method of computing the tax, the tax may be apportioned and paid on the basis of the ratio of the value of the Tennessee collateral to the value of all collateral, by applying the following mathematical
formula:

\[
\text{value of Tennessee collateral / value of total collateral} = \_\_\_\_\_\_\_\_\_\% \times \text{indebtedness} = \text{taxable Tennessee indebtedness}
\]

(ii) If the tax is apportioned pursuant to this subdivision (b)(7), no evidence of the calculation or statement of tax shall be required in addition to the statement required by subdivision (b)(5)(C), which shall be completed with the amount resulting from the calculation made pursuant to subdivision (b)(7)(A)(i).

(B) For purposes of the apportionment calculation allowed in subdivision (b)(7)(A)(i):

(i) “Collateral” means any real property or personal property securing the indebtedness evidenced by the instrument to be filed or recorded;

(ii) “Mobile goods” means goods that are mobile and that are of a type normally used in more than one (1) jurisdiction, such as trailers, rolling stock, airplanes, shipping containers, road building and construction machinery, commercial harvesting machinery and the like;

(iii) “Taxable Tennessee indebtedness” means the amount of indebtedness on which tax is to be calculated as provided in subdivision (b)(4), with the two-thousand-dollar ($2,000) exemption to be applied to the taxable Tennessee indebtedness;

(iv) “Tennessee collateral” means all collateral in which a security interest, deed of trust, mortgage lien or other consensual lien is perfected by filing or recording one or more instruments in the state of Tennessee or by other methods where the laws of the state of Tennessee govern perfection; provided, however, that the Tennessee collateral of a debtor that is located in Tennessee, as determined pursuant to § 47-9-307, does not include such debtor’s interests in:

(a) Any personal property physically located outside the state of Tennessee, including goods, other than mobile goods, and any property that is of a type in which a security interest could be perfected by possession under Tennessee law if such property were located in Tennessee, such as certificated securities, chattel paper, documents, instruments and money; or

(b) Any intangible property and mobile goods, unless such debtor’s chief executive office is also located in the state of Tennessee. Any subsequent change in the location of the debtor or any collateral, in the facts supporting the categorization of any particular collateral, or in the relative quantities or values of collateral shall not in itself result in the imposition of additional tax;

(v) “Total collateral” means all collateral, including the Tennessee collateral; and

(vi) “Value” of collateral means the value that the collateral would command at a fair and voluntary sale.

(8) In the event of an increase in the indebtedness beyond the amount stated subsequent to the filing or recordation of the instrument, the holder of the indebtedness shall pay the tax on the amount of the increase. Such a payment shall be due on the date the increase occurs, but may be made without penalty if made within sixty (60) days after the increase occurs. Thereafter, such payment may be made only upon payment of the penalty provided in subdivision (b)(12) based on the amount of the increase in the indebtedness.
(9) Sections 67-4-206 and 67-4-217 shall not apply to the tax imposed by this subsection (b).

(10)(A) Nonpayment or underpayment of tax on an indebtedness, or failure timely to pay tax on an increase in indebtedness, shall not affect or impair the effectiveness, validity, priority, or enforceability of the security interest or lien created or evidenced by the instrument, it being declared the legislative intent that the effectiveness, validity, priority, and enforceability of security interest and liens are governed solely by law applicable to security interests and liens, and not by this title.

(B) Such nonpayment, underpayment, or failure to pay, until cured, shall result in the imposition of a tax lien, in the amount of any tax and penalties unpaid and owing under this subsection (b), in favor of the department of revenue as described in subdivision (b)(11), shall subject the holder of the indebtedness to a penalty as described in subdivision (b)(12), and shall subject the holder of the indebtedness to the disability described in subdivision (b)(13).

(11) The tax lien described in subdivision (b)(10) shall arise at the time the tax is due and shall at that time attach to any property, either real or personal, tangible or intangible, subject to the instrument until:

(A) The lien or security interest of the instrument is released with respect to any property; or

(B) Any property is transferred in settlement or realization of the lien or security interest, whereupon the tax lien shall automatically be released from such property and attach to any proceeds thereof. The department may not levy upon or sell any property subject to the tax lien until notice of the tax lien has been recorded pursuant to § 67-1-1403, but notwithstanding such section, the department otherwise shall not be required to record any notice of the tax lien. The tax lien shall be superior to all liens and security interest under Tennessee law, except:

(i) Those enumerated in § 67-1-1403(c)(2)-(4) that were recorded, filed or perfected, respectively, prior to attachment of the tax lien; and

(ii) County and municipal ad valorem taxes.

(12) It is the duty of every holder of an indebtedness, including an individual, business entity of any organizational structure, or governmental entity, to collect the tax imposed by this subsection (b) from the debtor and to remit the tax as required by this subsection (b). Except as provided in subdivision (b)(8), if the holder of the indebtedness fails to pay or underpays the tax imposed by this subsection (b), the holder of the indebtedness shall be liable for a penalty, in addition to the tax, in the amount of two hundred fifty dollars ($250) or double the unpaid tax due, whichever is greater.

(13) The holder of an indebtedness evidenced or secured by an instrument upon the recording or filing of which tax is owing under this section may not maintain an action on such indebtedness, other than an action limited to the enforcement of the holder’s security interest or lien, against the debtor until such nonpayment is cured. If such an action is commenced and a cure is not effected within a time limit set by the court, the debtor may obtain a dismissal of such action, without prejudice to refiling in the event of a subsequent cure of nonpayment. Notwithstanding the terms of the instrument, if a cure is not effected until after the filing of a motion or pleading in which the holder’s noncompliance with this subsection (b) is raised, the holder may not thereafter charge the debtor with the costs of curing such
noncompliance.

(c) Any oath required in subsections (a) and (b) shall not be introduced as evidence in any proceeding conducted in connection with any condemnation action for the purpose of indicating the value of such real property.

(d) Reports and Payment of Tax to the Commissioner.

(1) The county register and other officials charged with the collection of taxes imposed under this section shall report all collections to the department on forms prescribed by the commissioner, in the same manner and under the same conditions as county clerks collect and report revenue under parts 2-6 of this chapter.

(2)(A) For collecting and reporting taxes levied under this section, county registers shall be entitled to retain as commission five percent (5%) of the taxes so collected.

(B) Notwithstanding subdivision (d)(2)(A) or any other law to the contrary, fifty-two percent (52%) of the five percent (5%) commission provided by subdivision (d)(2)(A) shall be remitted to the state treasurer and credited to the general fund of the state.

(3) The county registers shall also be entitled to receive as a fee for issuing each receipt for taxes imposed in this section the sum of one dollar ($1.00), to be paid when the tax receipt is issued. The fee, however, shall not be applicable nor collectible by any state officials charged with the collection of taxes imposed under this section.

(e) Instruments made pursuant to mergers, consolidations, sales or transfers of substantially all of the assets in this state of corporations, pursuant to plans of reorganization, are exempt from this section.

(f)(1) The recording and rerecording of all transfers of realty in which a municipality is the grantee or transferee and all instruments evidencing an indebtedness in which a municipality is the holder or owner of the indebtedness shall be exempt from this section. The recording and rerecording of all instruments evidencing an indebtedness of any health and educational facility corporation formed pursuant to title 48, chapter 101, part 3 shall also be exempt from this section.

(2) For the purposes of this subsection (f), “municipality” means the state of Tennessee or any county or incorporated city or town, utility district, school district, power district, sanitary district, or other municipal, quasi-municipal, or governmental body or political subdivision in this state, and any agency, authority, branch, bureau, commission, corporation, department or instrumentality thereof now or later authorized to be created.

(3) The recording or rerecording of any transfer of realty to or from any municipality and any evidence of indebtedness of or to any municipality, as defined in subsection (a), prior to May 11, 1971, and otherwise validly made, is declared to be valid and effective, notwithstanding any failure to pay the tax formerly imposed by this section, and any such recording or rerecording is ratified, approved and confirmed, and no tax shall be imposed or collected on account of any such recording or rerecording.

(g) Wetland Acquisition Fund.

(1) Three and one fourth cents (3.25¢) of the tax levied by subsection (a) shall be credited to a special agency account in the state general fund known as the 1986 wetland acquisition fund; provided, that such funds shall not be obligated or expended to acquire any interest in real property through condemnation or the power of eminent domain. Expenditures from such fund
shall only be made to implement and effectuate the purposes of title 11, chapter 14, part 4. The fund may be expended to maintain and enhance state-owned property that is under the agency’s jurisdiction. Funds deposited in such fund shall not revert at the end of any fiscal year, and all interest accruing on investments and deposits of the fund not otherwise expended shall be returned to and made a part of the fund.

(2) Notwithstanding any provision of this section to the contrary, the commissioner of finance and administration, with the written approval of the executive director of the Tennessee wildlife resources agency, is authorized, subject to legislative appropriation, to transfer funds from the 1986 wetland acquisition fund to the Tennessee heritage conservation trust fund, created in title 11, chapter 7, part 1. For the purposes of § 11-7-103(h), “other available sources” also shall not include any funds transferred to the Tennessee heritage conservation trust fund from the 1986 wetland acquisition fund pursuant to this subdivision (g)(2).

(h) **Exception for Certain Facilities.**

(1) With respect to any facility as defined in subdivision (h)(2)(A):

(A) The taxes paid under subsection (a) shall not exceed one hundred thousand dollars ($100,000) in the aggregate; and

(B) The taxes paid under subsection (b) shall not exceed five hundred thousand dollars ($500,000) in the aggregate.

(2)(A) As used in this subsection (h), “facility” means any real or personal property that is constructed, acquired or developed for the principal purpose of manufacturing, processing, fabricating or assembling any manufactured products and includes, but is not limited to, all or any part of or any interest in any land and building, including office, administration or other buildings, any improvement to the facilities and all real and personal properties, including, but is not limited to, equipment and machinery deemed necessary in connection with the facility, whether or not now in existence.

(B) As used in this subsection (h), “related indebtedness” means indebtedness relating to or incurred to finance a portion of or otherwise in connection with a facility, which shall be evidenced by instruments, including, but not limited to, mortgages, deeds of trust, conditional sales contracts, financing statements contemplated by the Uniform Commercial Code, compiled in title 47, and liens on personalty, notwithstanding the fact that portions of such indebtedness may be held by different holders, owners, trustees or other secured parties (holders) of indebtedness or portions of indebtedness relating to the facility.

(3) In order to qualify for the exception provided under this subsection (h), prior to the public recordation of any instrument evidencing a transfer of an interest in realty or of any instrument evidencing a related indebtedness under this section, the grantee or transferee of the interest in such realty or the holder of related indebtedness must submit a sworn statement declaring the amount of tax paid for recording instruments by or on behalf of the person, corporation, or other entity that owns, leases or otherwise operates the facility, referred to in this subsection (h) as the taxpayer, under both subsection (a), with respect to the transfer of realty pertaining to the facility, and subsection (b), with respect to related indebtedness, and a copy of each receipt for the taxes paid for recording such instruments or other evidence of such payments. No tax will be due, if the taxes paid by or on behalf of the
taxpayer for recording such instruments pursuant to subsections (a) and (b) relating to the facility and any related indebtedness equal an aggregate amount of one hundred thousand dollars ($100,000) or five hundred thousand dollars ($500,000), as the case may be. If less than the aggregate amount of one hundred thousand dollars ($100,000) or five hundred thousand dollars ($500,000), as the case may be, in taxes for recording instruments pursuant to subsections (a) and (b) relating to the facility and any related indebtedness has been paid by or on behalf of the taxpayer prior to the proposed recordation of any instrument evidencing a transfer of an interest in realty or related indebtedness, the grantee or transferee of an interest in such realty or the holder of related indebtedness must pay or cause to be paid the amount of tax due, calculated in accordance with this section, which amount shall be no more than the difference between one hundred thousand dollars ($100,000) or five hundred thousand dollars ($500,000), and the aggregate amount of such taxes paid by or on behalf of the taxpayer for recording instruments pertaining to the facility and any related indebtedness pursuant to subsections (a) and (b). In no event, however, shall the aggregate amount of taxes paid for recording instruments relating to transfers of an interest in realty under subsection (a) and related indebtedness under subsection (b) exceed one hundred thousand dollars ($100,000) or five hundred thousand dollars ($500,000) by or on behalf of the taxpayer.

(i) Local Parks Land Acquisition Fund.

(1) One and three fourths cents (1.75¢) of the tax levied by subsection (a) shall be credited to a special agency account in the state general fund known as the local parks land acquisition fund. The moneys in this fund shall be used only for grants to county and municipal governments to implement and carry out the purposes set forth in subdivision (i)(3); provided, that the commissioner of environment and conservation may allocate not more than three and one-half percent (3.5%) of the moneys in this fund for the administration of the fund. Funds deposited in such fund shall not revert at the end of any fiscal year, and all interest accruing on investments and deposits of the fund not otherwise expended shall be returned to and made a part of the fund.

(2)(A) The commissioner of environment and conservation, the commissioner of agriculture and the director of the wildlife resources agency shall jointly establish priorities for the appropriate allocation of funds, deposited in the local parks land acquisition fund. No project shall receive any such funds unless each such official has approved such expenditure. Such officials shall consider applications from county and municipal governments throughout the state.

(B) At least sixty percent (60%) of the funds allocated annually shall go to municipal governments.

(3) County and municipal governments may use the funds allocated under this section for the purchase of land for parks, natural areas, greenways, and for the purchase of land for recreation facilities. Such funds may also be used for trail development and capital projects in parks, natural areas, and greenways.

(4)(A) Any county or municipal government that receives a grant under this section must match the grant with an equal amount of money for each project. The matching money provided by the local government may be
used to purchase additional land or to develop facilities on the land that is purchased with the grant. Rather than providing matching money, the local government may provide as its match a tract of land not previously used for park or recreational purposes that will be dedicated entirely for park or recreational purposes after receipt of the grant and that is independently appraised as having the same, or greater, value as the amount of the state grant.

(B) Rather than providing matching money, the local government may also provide as all or part of its match volunteer services, materials, and equipment that are donated to the local government by a third party at the time the state grant is made, that are used for trail construction or other development on the tract of land for which the state grant is sought, and that are valued in a manner specified by the department.

(5) If an application from a county or municipal government has been submitted for a grant from the local parks land acquisition fund and the county or municipal government subsequently purchases the land or constructs the trail for which the grant was sought before the grant is acted upon, the grant may still be awarded as a reimbursement; provided, that the application was submitted by the local government no more than twelve (12) months prior to the award of the grant.

(6) The commissioner of environment and conservation, the commissioner of agriculture and the director of the wildlife resources agency may promulgate regulations to implement this subsection (i).

(7) No funds deposited in the local parks land acquisition fund from the tax levied by subsection (a) shall be obligated or expended to acquire any interest in real property through condemnation or the power of eminent domain.

(j) State Lands Acquisition Fund.

(1) One and one half cents (1.5¢) of the tax levied by subsection (a) shall be credited to a special agency account in the state general fund known as the state lands acquisition fund. Expenditures from such fund shall be made only to implement and carry out the purposes set forth in subdivision (i)(2). Funds deposited in such fund shall not revert at the end of any fiscal year, and all interest accruing on investments and deposits of the fund not otherwise expended shall be returned to and made a part of the fund.

(2)(A) The commissioner of environment and conservation shall expend the funds which are deposited in the state lands acquisition fund only for the acquisition of land for any area designated as an historic place as evidenced by its inclusion on the National Register of Historic Places, state historic areas or sites, state parks, state forests, state natural areas, boundary areas along state scenic rivers, the state trails system, and for the acquisition of easements to protect any of the foregoing state areas. Such funds may also be used for trail development in the foregoing areas.

Such funds may also be used for the redevelopment, renovation and restoration of historic theaters owned by a governmental entity or a not-for-profit corporation or its controlled affiliate and listed on the National Register of Historic Places. Such funds may also be used for capital projects, including improvements and maintenance, at state parks.

(B) No funds deposited in the state lands acquisition fund from the tax levied by subsection (a) shall be obligated or expended to acquire any interest in real property through condemnation or the power of eminent domain.
domain.

(3) The first three hundred thousand dollars ($300,000) deposited in the state lands acquisition fund shall be transferred and credited to the compensation fund created under § 11-14-406. Following the procedure set forth in that section, the commissioner of finance and administration shall annually reimburse each city and county the amount of lost property tax revenue resulting from any purchase of land by the department of environment and conservation which renders such land tax exempt. The next two hundred fifty thousand dollars ($250,000) deposited in the state lands acquisition fund in each fiscal year shall be transferred and credited to the Tennessee Civil War or War Between the States site preservation fund created under § 4-11-112. Funds allocated to the preservation fund shall be used exclusively as provided in § 4-11-112.

(4) The commissioner of environment and conservation, the commissioner of agriculture and the director of the wildlife resources agency shall jointly establish priorities for the appropriate allocation of funds deposited in the state lands acquisition fund. No project shall receive any such funds unless each such official has approved such expenditure. The commissioner of environment and conservation, the commissioner of agriculture and the director of the wildlife resources agency may promulgate regulations to implement this subsection (j).

(5) Acquisition pursuant to this subsection (j) of property classified under chapter 5, part 10 of this title, shall not constitute a change in the use of the property, and no rollback taxes shall become due solely as a result of such acquisition.

(6) Notwithstanding any provision of this section to the contrary, the commissioner of finance and administration, with the written approval of the commissioner of environment and conservation, is authorized, subject to legislative appropriation, to transfer funds from the state lands acquisition fund to the Tennessee heritage conservation trust fund, created in title 11, chapter 7, part 1. For the purposes of § 11-7-103(h), “other available sources” also shall not include any funds transferred to the Tennessee heritage conservation trust fund from the state lands acquisition fund pursuant to this subdivision (j)(6).

(k) Revenue Stream. The moneys deposited in the 1986 wetlands acquisition fund and the moneys deposited in the state lands acquisition fund may be used as the revenue stream to pay the principal of and interest on revenue bonds that are sold by the state of Tennessee to generate funds to fulfill the purposes for which the moneys deposited in each of these funds may be used.

(l) Agricultural Resources Conservation Fund.

(1) One and one half cents (1.5¢) of the tax levied by subsection (a) shall be credited to a special agency account in the state general fund known as the agricultural resources conservation fund. Expenditures from such fund shall be made only to implement and carry out the purposes set forth in subdivision (l)(2). Funds deposited in such fund shall not revert at the end of any fiscal year, and all interest accruing on investments and deposits of the funds not otherwise expended shall be returned to and made a part of the fund.

(2) The commissioner of agriculture shall expend the funds that are deposited in the agricultural resources fund for purposes of landowner assistance, to address point and nonpoint source water quality issues, as
well as nuisance problems, including, but not limited to, odor, noise, dust and similar concerns. The commissioner of environment and conservation, commissioner of agriculture and the director of the wildlife resources agency shall jointly establish priorities for the appropriate allocation of funds deposited in the agricultural resources conservation fund. No project shall receive any such funds unless each such official has approved such expenditure. The commissioner of agriculture may promulgate regulations to implement this subsection (l).

(3) Expenditures from the agricultural resources conservation fund shall be made for the promotion and implementation of agricultural management practices that conserve and protect natural resources associated with agricultural production, including, but not limited to, soil, water, air, plants and animals. The commissioner of agriculture may spend up to five percent (5%) of the annual appropriations from this fund on education of landowners, producers and managers concerning conservation and protection practices. No more than ten percent (10%) of the annual appropriation from this fund may be used for management costs associated with technical assistance to accomplish the purposes of the fund and/or the administration of the fund. It is the intent of the general assembly that the highest priority of the agricultural resources conservation fund is to abate and prevent nonpoint source water pollution that may be associated with agricultural production; therefore, the commissioner of agriculture may spend no more than fifteen percent (15%) of the annual appropriations from the fund for the combined purposes of preventing or remedying air, noise, dust, and odor pollution, or similar nuisance type environmental problems associated with agricultural production. The commissioner of agriculture may expend agricultural resources conservation funds as matching dollars to secure additional funding to fulfill the purposes for which the fund was established.

(4) The commissioner of agriculture shall seek advice from the commissioner of environment and conservation in determining the most effective ways to abate nonpoint pollution from agricultural activities.

(m) Transfers to Other Funds. Beginning in fiscal year 2015-2016 and in each subsequent fiscal year, fifty percent (50%) of the total growth in collections of the tax levied by subsection (a) over the previous fiscal year and deposited to the funds enumerated in subsections (g), (i), (j), and (l) shall be transferred and credited as follows:

(1) Sixty-four percent (64%) of the growth funds shall be transferred and credited to the Tennessee Civil War or War Between the States site preservation fund created by § 4-11-112, to be used exclusively as provided in § 4-11-112; and

(2) Thirty-six percent (36%) of the growth funds shall be transferred and credited to historic property land acquisition fund created by § 4-11-113, to be used exclusively as provided in § 4-11-113.

(n) Reports of Expenditures.

(1)(A) By February 1 of every odd-numbered year, the commissioner of environment and conservation shall file with the energy, agriculture and natural resources committee of the senate and the agriculture and natural resources committee of the house of representatives a report detailing expenditures made from the state lands acquisition fund and grants made to local governments from the local parks land acquisition fund.

(B) By February 1 of every odd-numbered year, the fish and wildlife commission shall file with the energy, agriculture and natural resources
committee of the senate and the agriculture and natural resources committee of the house of representatives a report detailing expenditures made from the wetlands acquisition fund.

(C) By February 1 of every odd-numbered year, the commissioner of agriculture shall file with the energy, agriculture and natural resources committee of the senate and the agriculture and natural resources committee of the house of representatives a report detailing expenditures made from the agricultural resources conservation fund.

(2)(A) Once every five (5) years, beginning in 1996, the commissioner of environment and conservation and the fish and wildlife commission shall reevaluate their land acquisition goals and priorities and shall incorporate their findings and conclusions into a written plan. This plan shall be submitted to the energy, agriculture and natural resources committee of the senate and the agriculture and natural resources committee of the house of representatives, which shall conduct public hearings on the plan.

(B) Once every five (5) years, beginning in 2002, the commissioner of agriculture shall reevaluate the progress and accomplishments of the agricultural resources conservation fund and shall incorporate the conclusions and recommendations of such reevaluation into a written plan. This plan shall be submitted to the energy, agriculture and natural resources committee of the senate and the agriculture and natural resources committee of the house of representatives, which shall conduct public hearings on the plan.

(o) **Management Policies.** The commissioner of environment and conservation and the fish and wildlife commission shall establish policies for the management of land acquired with funds from the state lands acquisition fund and the wetlands acquisition fund, which policies shall be designed to foster a good relationship with nearby private landowners and to prevent adverse impacts on adjoining property. These policies shall be publicized to nearby private landowners.

67-4-602. Tax imposed.

(a) There is levied a privilege tax on litigation instituted in this state, of twenty-nine dollars and fifty cents ($29.50) on all criminal charges, upon conviction or by order.

(b) There is levied a privilege tax on litigation of twenty-three dollars and seventy-five cents ($23.75) in all civil cases in this state in chancery court, circuit court, probate court, general sessions court when exercising state court jurisdiction, or in any other court exercising state court jurisdiction in a civil case in this state other than the court of appeals or the supreme court. When a general sessions court is exercising state court jurisdiction, except with regard to cases in juvenile court, there is levied an additional privilege tax of one dollar ($1.00).

(c) There is levied a privilege tax on litigation of seventeen dollars and seventy-five cents ($17.75) in all civil cases in this state in general sessions court, when not exercising state court jurisdiction.

(d) There is levied a privilege tax on litigation of thirteen dollars and seventy-five cents ($13.75) in all civil cases in this state in the court of appeals or the supreme court.

(e) In all civil cases in municipal courts in this state, the clerk of the court
shall collect a litigation tax in accordance with § 16-18-305. When a municipal court is exercising general sessions jurisdiction, the clerk of the court shall collect a privilege tax on litigation in those cases that is the same as the tax collected by other general sessions courts in comparable cases.

(f)(1) In addition to any other tax imposed by this chapter, there is levied a privilege tax on litigation of three dollars ($3.00) on all criminal charges, upon conviction or by order, instituted in the general sessions court in any county having a population of not less than three hundred nineteen thousand six hundred twenty-five (319,625), nor more than three hundred nineteen thousand seven hundred twenty-five (319,725), according to the 1980 federal census or any subsequent federal census. Notwithstanding the apportionment provisions of § 67-4-606, each levy of this tax shall be paid into the office of the county clerk of such county, with the proceeds to be credited to a separate reserve account in the county fund. The proceeds shall be disbursed to expand the use of the appropriate law enforcement officers for walking patrols within public housing subdivisions, and in localities within such county that traditionally experience greater incidence of crime. The proceeds may also be used by the respective police department to fund police cadet programs conducted by such department, in localities within such county that traditionally experience greater incidence of crime.

(2) Five percent (5%) of the proceeds collected under subdivision (f)(1) shall be retained by the office of the county clerk collecting the tax, for the purpose of effectuating this subsection (f).

(g)(1) In addition to any other tax levied by this chapter, there is levied an additional privilege tax on litigation of one dollar ($1.00) on all criminal charges, upon conviction or by order, instituted in any state or county court, for any violation of title 55, chapter 8, or for a violation of any ordinance governing use of public parking space.

(2) Notwithstanding the provisions of this chapter or any private act or resolution of a county legislative body to the contrary, no litigation taxes shall apply to any charge prosecuted for an offense under § 55-8-188.

(h)(1) There is imposed an additional privilege tax on litigation of one dollar ($1.00) on all criminal charges, upon conviction or by order, instituted in any state or general sessions court. Effective July 1, 2012, the privilege tax on litigation imposed by this subdivision (h)(1) is increased in the amount of two dollars ($2.00), for a total of three dollars ($3.00), which shall be deposited to the statewide automated victim information and notification system fund created by subdivision (h)(2).

(2)(A) There is created a special account in the state treasury to be known as the statewide automated victim information and notification system fund, referred to as the victim notification fund in this section.

(B) Notwithstanding the apportionment of revenue formula in § 67-4-606, proceeds from the privilege tax on litigation imposed by subdivision (h)(1) must be deposited in the victim notification fund.

(3) Moneys in the victim notification fund may be invested by the state treasurer in accordance with § 9-4-603.

(4) Notwithstanding any law to the contrary, interest accruing on investments and deposits of the victim notification fund shall be credited to the fund, shall not revert to the general fund and shall be carried forward into the subsequent fiscal year.

(5) Any balance remaining unexpended at the end of a fiscal year in the victim notification fund shall not revert to the general fund but shall be
carried forward into the subsequent fiscal year.

(6) Money in the victim notification fund may be expended only in accordance with annual appropriations approved by the general assembly and in accordance with § 40-38-505.

(i) The privilege taxes imposed by § 40-24-107 are deemed litigation taxes, collectible by the respective court clerks as otherwise provided in § 67-4-603, and subject to apportionment according to § 67-4-606; however, the designation of these taxes as litigation taxes shall not change the clerk’s fee provided for in § 40-24-107, nor shall the designation of the taxes as litigation taxes alter the priority of collection or distribution of monies collected by the clerk in cases where these taxes are levied.

(j) The privilege tax imposed by § 39-13-708, after deduction for administrative costs under § 39-13-708(c)(1), is deemed a litigation tax, collectible by the respective court clerks, as otherwise provided in § 67-4-603, and subject to apportionment according to § 67-4-606; however, the designation of these taxes as litigation taxes shall not change the clerk’s fee provided for in § 39-13-708(c)(1), nor shall the designation of the taxes as litigation taxes alter the priority of collection or distribution of monies collected by the clerk in cases where these taxes are levied.

(k)(1) In addition to any other tax imposed by this chapter, there is levied a privilege tax on litigation of two dollars ($2.00) on all criminal charges, upon conviction or by order, instituted in the general sessions court of any county served by a judicial commissioner.

(B) There is created a special account in the state treasury to be known as the judicial commissioner continuing education account, referred to as the judicial commissioner fund in this subsection (k).

(B) Notwithstanding the apportionment of revenue formula in § 67-4-606, there shall be deposited in the judicial commissioner fund proceeds from the two-dollar privilege tax on litigation imposed by subdivision (k)(1).

(3) Moneys in the judicial commissioner fund may be invested by the state treasurer in accordance with § 9-4-603.

(4) Notwithstanding any law to the contrary, interest accruing on investments and deposits of the judicial commissioner fund shall be credited to the fund, shall not revert to the general fund and shall be carried forward into the subsequent fiscal year.

(5) Any balance remaining unexpended at the end of a fiscal year in the judicial commissioner fund shall not revert to the general fund but shall be carried forward into the subsequent fiscal year.

(6) Moneys in the judicial commissioner fund may be expended only in accordance with annual appropriations approved by the general assembly for the purposes described in § 40-1-111(f)(7).

(l) Every person from whom the clerks of the various courts are required to collect the tax imposed by this section shall be liable for the tax imposed by this section.

(m) [Deleted by 2016 amendment.]

67-4-724. Distribution of taxes — Retention by state in general fund of taxes, interest and penalties assessed due to audit.

(a) The tax levied by the state under § 67-4-704, including any associated interest and penalties, shall be distributed as follows:
(1) An amount equal to seven dollars ($7.00) per return shall be paid to the county clerk with respect to each tax return filed under § 67-4-715 by a taxpayer that is either located within the county or otherwise obtains a license under § 67-4-723(a). Of that amount, three dollars ($3.00) 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;

(2) After the distribution provided in subdivision (a)(1), an amount equal to five percent (5%) of the remaining proceeds of the tax shall be paid to the county clerk in the case of returns filed under § 67-4-715 by taxpayers located or otherwise licensed under § 67-4-723(a) within the county;

(3) After the distributions provided in subdivisions (a)(1) and (2), forty-three percent (43%) of the remaining proceeds of the tax shall be earmarked and allocated specifically and exclusively to the state’s general fund;

(4) After the distributions provided in subdivisions (a)(1)-(3), an administration fee of one and one hundred twenty-five thousandths percent (1.125%) of the remaining proceeds of the tax shall be allocated to the department to cover the expenses of administration and collection;

(5) After the distributions provided in subdivisions (a)(1)-(4), the remaining proceeds of the tax collected under § 67-4-704 shall be distributed to the county in which the taxpayer has established a physical location, outlet, or other place of business from which the sales are made;

(b) The tax levied by an incorporated municipality under § 67-4-705, including any associated interest and penalties, shall be distributed as follows:

(1) An amount equal to seven dollars ($7.00) per return shall be paid to the appropriate city official with respect to each tax return filed under § 67-4-715 by a taxpayer that is either located within the municipality or otherwise obtains a license under § 67-4-723(a);

(2) After the distribution provided in subdivision (b)(1), an amount equal to five percent (5%) of the remaining proceeds of the tax shall be paid to the appropriate city official in the case of returns filed under § 67-4-715 by taxpayers located or otherwise licensed under § 67-4-723(a) within the municipality;

(3) After the distributions provided in subdivisions (b)(1) and (2), forty-three percent (43%) of the remaining proceeds of the tax shall be allocated to the general fund of the state. Any allocation or distribution of amounts from the general fund for local purposes shall be deemed first derived from the proceeds directed into the general fund under this subdivision (b)(3);

(4) After the distributions provided in subdivisions (b)(1)-(3), an administration fee of one and one hundred twenty-five thousandths percent (1.125%) of the remaining proceeds of the tax shall be allocated to the department to cover the expenses of administration and collection;

(5) After the distributions provided in subdivisions (b)(1)-(4), the remaining proceeds of the tax collected by the commissioner under § 67-4-705 shall be distributed to the municipality that levied the tax.

(c) Notwithstanding subsections (a) and (b), one hundred percent (100%) of the tax, interest, and penalty collected from a taxpayer that does not have either a license under § 67-4-723(a) or an established physical location, outlet, or other place of business in any county or incorporated municipality in the
state shall be earmarked and allocated specifically and exclusively to the state’s general fund. In addition, one hundred percent (100%) of the amount of any tax, interest, and penalty assessed by the commissioner pursuant to § 67-4-704 or § 67-4-705 as a result of an audit of the taxpayer’s books and records shall be earmarked and allocated specifically and exclusively to the state’s general fund. In addition, one hundred percent (100%) of the tax, interest, and penalty collected from any person described in § 67-4-708(5) and taxable under § 67-4-709(5) shall be earmarked and allocated specifically and exclusively to the state’s general fund.

(d) The fee levied by a county or incorporated municipality under § 67-4-710, including any associated interest and penalties, shall be retained by the county or incorporated municipality that levied the fee. Notwithstanding the preceding sentence, an amount equal to five percent (5%) of the proceeds of the fee shall be paid to the county clerk, in the case of fees collected under § 67-4-710 by a county, and to the appropriate city official, in the case of fees collected under § 67-4-710 by a municipality.

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 (2/3) 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 fifty (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 (2/3) 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 (2/3) 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 (\(\frac{2}{3}\)) 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 (\(\frac{2}{3}\)) 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 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 (\(\frac{2}{3}\)) 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 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 (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 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 (2/3) 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 (2/3) 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 (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 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.
provided, that the city is authorized to levy a privilege tax by ordinance adopted by a two-thirds (\(\frac{2}{3}\)) 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 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 (\(\frac{2}{3}\)) 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 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 (\(\frac{2}{3}\)) 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 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 (\(\frac{2}{3}\)) 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 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 (\( \frac{2}{3} \)) 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 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 (\( \frac{2}{3} \)) 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 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 (\( \frac{2}{3} \)) 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 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), 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; provided, that the city may, after notice and a public hearing, levy a privilege tax by ordinance adopted by a two-thirds (\( \frac{2}{3} \)) 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 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 (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 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 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.

(z) This section does not apply in any county having a population of not less than fifty-two thousand seven hundred (52,700) nor more than fifty-two thousand eight hundred (52,800), 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 (2/3) vote of its governing body upon the privilege of occupancy in any hotel or motel of each transient in an amount not to exceed two and one-half percent (2.5%) of the consideration charged by the operator. The revenue generated by this privilege tax must be used to support local tourism and economic development. The resolution must set forth the manner of collection and administration of the privilege tax.

(aa) This section does not apply in any city having a population of not less than six thousand ninety (6,090) nor more than six thousand one hundred (6,100) that is located within any county having a population of not less than eighteen thousand three hundred one (18,301) nor more than eighteen thousand four hundred (18,400), 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 and a half percent (2.5%) of the consideration charged by the operator. All proceeds received by the city from such tax must be used solely to promote tourism and economic development in the city and for no other purpose. The ordinance must set forth the manner of collection and administration of the privilege tax.

(bb) This section does not apply in any city having a population of not less than four thousand five hundred forty (4,540) nor more than four thousand five hundred forty-nine (4,549) 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 (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 and a half percent (2.5%) of the consideration charged by the operator. All proceeds received by the city from such tax must be used solely to promote tourism and economic development in the city and for no other purpose. The ordinance must set forth the manner of collection and administration of the privilege tax.
city on 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 must be used solely to promote tourism and economic development in the city and for no other purpose. The ordinance must set forth the manner of collection and administration of the privilege tax.

(cc) This section does not apply in any city having a population of not less than thirty thousand four hundred thirty (30,430) nor more than thirty thousand four hundred thirty-nine (30,439) that is located within any county having a population of not less than seventy-two thousand three hundred (72,300) and not more than seventy-two thousand four hundred (72,400), 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 on each transient in an amount not to exceed three percent (3%) of the consideration charged by the operator. All proceeds received by the city from the tax must be used solely to promote tourism and economic development in the city and for no other purpose. The ordinance must set forth the manner of collection and administration of the privilege tax.

(dd) This section shall not apply in any city having a population of not less than two thousand one hundred ninety (2,190) nor more than two thousand one hundred ninety-nine (2,199) that is located inside 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; 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 three and one-half percent (3.5%) 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.

67-4-1702. Occupations subject to tax.

There is levied a tax on the privilege of engaging in the following vocations, professions, businesses, or occupations:

(1) Persons registered as lobbyists pursuant to § 3-6-302;
(2) Persons licensed or registered under title 48, chapter 1 as:
   (A) Agents;
   (B) Broker-dealers; and
   (C) Investment advisers;
(3) Persons licensed or registered under title 63 as:
   (A) Osteopathic physicians; and
   (B) Physicians; and
(4) Persons licensed as attorneys by the supreme court of Tennessee.

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;

(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;

(P) Five percent (5%) of the amount included in federal taxable income under 26 U.S.C. § 951A before the deduction in 26 U.S.C. § 250; and

(Q) Five percent (5%) of the amount included in federal taxable income under 26 U.S.C. § 965(a) before the deduction in 26 U.S.C. § 965(c).

(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);

(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;

(T) Any amount included in federal taxable income under 26 U.S.C. § 951A, relating to federal taxation of global intangible low-taxed income, to the extent it would otherwise be included in net earnings or losses as defined in subsection (a); and

(U) Any amount included in federal taxable income under 26 U.S.C. § 965(a), relating to federal taxation of deferred foreign income, to the extent it would otherwise be included in net earnings or losses as defined in subsection (a).

(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, consolida-
tions, 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.

67-4-2009. Credits.

The tax imposed by this part shall be in addition to all other taxes and there shall be no credit allowed upon it except the following:

(1) In accordance with § 56-4-217, there shall be credited upon the tax imposed by this part the net amount of gross premiums tax paid that is measured by a period that corresponds to the excise tax period on which the
return is based, plus any amount used to offset payment to the Tennessee guaranty association that has not otherwise been recovered, but not including the gross premiums receipts tax paid by fire insurance companies for the purpose of executing the fire marshal law;

(2) When an audit of an excise tax return for any year not barred by the statute of limitations discloses a change in the amount of tax due, there may be applied upon it as a credit any amount that the taxpayer is otherwise entitled to receive either as a credit under part 4 or 5 of this chapter for excise taxes paid, or as a refund thereof under § 67-1-1802. This tax credit allowance may be applied notwithstanding the statute of limitations or the requirement for approval of certain refunds by the commissioner and the attorney general and reporter if such was made under § 67-1-1802, and also any statutory or regulatory requirement under various items of part 4 or 5 of this chapter that the excise tax be paid prior to the allowance of any credit;

(3)(A) There shall be allowed against the sum total of the taxes imposed by the franchise tax law, compiled in part 21 of this chapter, and by the excise tax law, compiled in this part, a credit equal to one percent (1%) of the purchase price of industrial machinery purchased during the tax period covered by the return and located in Tennessee. For purposes of this section, “industrial machinery” means:

(i) “Industrial machinery” as defined by § 67-6-102; or

(ii) “Computer,” “computer network,” “computer software,” or “computer system” as defined by § 39-14-601, and any peripheral devices, including, but not limited to, hardware, such as printers, plotters, external disc drives, modems, and telephone units, purchased by a taxpayer in the process of making the required capital investment in Tennessee described in § 67-4-2109(a), if as a result of making such purchase and meeting the other requirements set forth in § 67-4-2109(b), the taxpayer qualifies for the job tax credit provided therein;

(B) The industrial machinery credit taken on any franchise and excise tax return, however, shall not exceed fifty percent (50%) of the combined franchise and excise tax liability shown by the return before the credit is taken;

(C)(i) Any unused credit may be carried forward in any tax period until the credit is taken; however, the credit may not be carried forward for more than fifteen (15) years;

(ii) If the taxpayer qualifies for the credit provided in subdivision (3)(I)(i), the fifteen-year limitation otherwise applicable to the carry-forward of unused credit shall not apply; provided, that the commissioner of economic and community development and the commissioner of revenue have determined that the allowance of the additional carry-forward is in the best interest of the state;

(iii) Subdivision (3)(C)(ii) 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;

(D) If the industrial machinery, for the purchase of which a tax credit has been allowed, is sold or removed from this state during its useful life according to the depreciation guidelines in effect for excise tax purposes, the department shall be entitled to recapture a portion of the credit allowed by increasing the franchise and/or excise tax liability of any taxpayer, for the taxable period during which the machinery was sold or
removed, in an amount equal to the percentage of useful life remaining on
the industrial machinery at the time of sale or removal times the total
credit taken on the purchase of the machinery;

(E) For purposes of the allowance of the credit against franchise and
excise taxes under this section, any taxpayer who is a lessee of new
industrial machinery and the original user of the industrial machinery,
including a lessee from an industrial development corporation as defined
by title 7, chapter 53, or other tax exempt entity, shall be treated as having
purchased the machinery during the tax period in which it is placed in
service by the lessee, at an amount equal to its purchase price;

(F) If industrial machinery is leased for a period that constitutes less
than eighty percent (80%) of its useful life, then the lessee shall be deemed
to have purchased only a portion of the machinery, at an amount
determined by multiplying the actual purchase price of the machinery by
a fraction, the numerator of which is the lease term, and the denominator
of which is the useful life of the leased machinery;

(G) [Expired July 1, 2015; see (3)(G)(ii)]

(i) Notwithstanding any law to the contrary, the industrial machinery
franchise and excise tax credit provided in this subdivision (3) may be
computed by a general partnership that operates a call center in
Tennessee that is placed in service by the general partnership on or after
June 30, 2003, and that would otherwise qualify for the credit provided
in § 67-4-2109(b)(3)(H). The industrial machinery franchise and excise
tax credit shall be computed as if the general partnership were subject
to franchise and excise tax. With respect to the general partnership tax
year during which a credit is so computed, a partner in the general
partnership that is subject to franchise and excise tax and that directly
holds a first tier ownership interest in the general partnership may take
a percentage of the credit that equals the total amount of the credit for
the general partnership multiplied by the partner’s percentage interest
in the general partnership on the last day of the general partnership tax
year against the partner’s franchise and excise tax liability for the
partner’s tax year that includes the last day. The industrial machinery
franchise and excise tax credit passed through from the general part-
nership to the first tier partner under this section shall, in the hands of
the first tier partner, be subject to applicable provisions and limitations
otherwise provided by this section, including carry forward provisions;
provided, that in no case shall the credit or a carryover of a credit be
taken by a business entity, unless it was a partner in the general
partnership and subject to franchise and excise tax at the time the credit
was earned by the general partnership;

(ii) This subdivision (3)(G) shall expire on July 1, 2015; provided, that
any taxpayer that has filed a business plan with the department prior to
July 1, 2015, shall continue to be eligible for the credit;

(H) Notwithstanding any provision to the contrary, a taxpayer that has
established its international, national, or regional headquarters in this
state and has met the requirements to qualify for the credit provided in
§ 67-6-224, or a taxpayer that has established an international, national,
or regional warehousing or distribution hub in this state and has met the
requirements to be a qualified new or expanded warehouse or distribution
facility, shall be allowed to offset up to one hundred percent (100%) of its
franchise and/or excise tax liability by the industrial machinery credit provided in this subdivision (3), or any carryforward of the industrial machinery credit, if the commissioner of revenue and the commissioner of economic and community development determine that increasing the percentage of offset above that allowed by subdivision (3)(B) is in the best interests of the state. For purposes of this subdivision (3)(H), “best interests of the state” means a determination that the taxpayer established its headquarters or a warehousing or distribution hub in this state, or converted a regional headquarters or regional warehousing or distribution hub in this state into its national or international headquarters or a national or international warehousing or distribution hub, as a result of such action. The commissioner of revenue and the commissioner of economic and community development shall determine the percentage of franchise and/or excise tax liability allowed to be offset, above that otherwise allowed by subdivision (3)(B), and the period during which the increased offset shall continue;

(I)(i) If the taxpayer makes a required capital investment in excess of one billion dollars ($1,000,000,000) during the investment period, the credit allowed in subdivision (3)(A) shall be equal to ten percent (10%) of the purchase price of industrial machinery located in this state and purchased in the process of making the required capital investment. The credit shall be subject to subdivisions (3)(A)-(H), except that a taxpayer making the required capital investment for purposes of this subdivision (3)(I) shall be entitled to the credit for the items listed in subdivision (3)(A)(ii) regardless of whether the taxpayer meets any of the requirements of, or qualifies for, the job tax credit provided in § 67-4-2109(b);

(ii) If the taxpayer makes a required capital investment in excess of five hundred million dollars ($500,000,000) during the investment period, the credit allowed in subdivision (3)(A) shall be equal to seven percent (7%) of the purchase price of industrial machinery located in this state and purchased in the process of making the required capital investment. The credit shall be subject to subdivisions (3)(A)-(H), except that a taxpayer making the required capital investment for purposes of this subdivision (3)(I) shall be entitled to the credit for the items listed in subdivision (3)(A)(ii) regardless of whether the taxpayer meets any of the requirements of, or qualifies for, the job tax credit provided in § 67-4-2109(b);

(iii) If the taxpayer makes a required capital investment in excess of two hundred fifty million dollars ($250,000,000) during the investment period, the credit allowed in subdivision (3)(A) shall be equal to five percent (5%) of the purchase price of industrial machinery located in this state and purchased in the process of making the required capital investment. The credit shall be subject to subdivisions (3)(A)-(H), except that a taxpayer making the required capital investment for purposes of this subdivision (3)(I) shall be entitled to the credit for the items listed in subdivision (3)(A)(ii) regardless of whether the taxpayer meets any of the requirements of, or qualifies for, the job tax credit provided in § 67-4-2109(b);

(iv) If the taxpayer makes a capital investment in excess of one hundred million dollars ($100,000,000) during the investment period, the credit allowed in subdivision (3)(A) shall be equal to three percent
(3%) of the purchase price of industrial machinery located in this state and purchased in the process of making the required capital investment. The credit shall be subject to subdivisions (3)(A)-(H), except that a taxpayer making the required capital investment for purposes of this subdivision (3)(I) shall be entitled to the credit for the items listed in subdivision (3)(A)(ii) regardless of whether the taxpayer meets any of the requirements of, or qualifies for, the job tax credit provided in § 67-4-2109(b);

(v) The taxpayer shall file a business plan with the commissioner of revenue in order to qualify for the credit provided in this subdivision (3)(I). The business plan shall be filed on or before the last day of the first fiscal year in which the investment is made and shall describe the investment. The commissioner of revenue has the authority to conduct audits or require the filing of additional information necessary to substantiate or adjust the findings contained within the business plan and to determine that the taxpayer has complied with all statutory requirements so as to be entitled to the credit in this subdivision (3)(I);

(vi) The credit in this subdivision (3)(I) shall begin to apply in the first year of the investment period; however, if the required capital investment is not met during the investment period, the taxpayer shall be subject to an assessment equal to the amount of any credit taken under this subdivision (3)(I) for which the taxpayer failed to qualify, plus interest;

(vii) For purposes of this subdivision (3)(I), unless the context otherwise requires:

(a) “Good cause” means a determination by the commissioner of economic and community development that the capital investment is a result of the credit provided in this subdivision (3)(I);

(b) “Investment period” means a period not to exceed three (3) years from the filing of the business plan related to the required capital investment, during which the required capital investment must be made. The three-year period for making the required capital investment may, for good cause shown, be extended by the commissioner of economic and community development for a reasonable period not to exceed four (4) years for a taxpayer that meets the requirements of subdivision (3)(I)(i) and not to exceed two (2) years for any other taxpayer; and

(c) “Required capital investment” means an increase of a business investment in real property, tangible personal property or computer software owned or leased in this state valued in accordance with generally accepted accounting principles. A capital investment shall be deemed to have been made as of the date of payment or the date the taxpayer enters into a legally binding commitment or contract for purchase or construction; and

(J) [Expired July 1, 2015; see (3)(J)(vi)]

(i) In addition to the credit provided in subdivision (3)(A), the owner of a qualifying environmental project shall be entitled to a one-time credit in the amount of one and three-fourths percent (1.75%) of the investment in the qualifying environmental project, and such credit shall have the same carry-forward features, limitations and other attributes as are applicable to job tax credits under § 67-4-2109(b)(1).
The owner of a qualifying environmental project shall also be provided six (6) annual credits in the amount of one and three-fourths percent (1.75%) of the investment in the qualifying project, and such credits shall have the same carry-forward features, limitations and other attributes as are applicable to enhanced job tax credits under § 67-4-2109(b)(2)(B)(iii), and the entire investment in the qualifying environmental project shall be treated as exempt required capital investment for purposes of § 67-4-2108(a)(6)(G);

(ii) For purposes of this subdivision (3)(J), a “qualifying environmental project” means a project in which the taxpayer makes an investment in excess of one hundred million dollars ($100,000,000) to eliminate mercury from the manufacturing process and operations of one (1) or more existing chlor-alkali manufacturing and ancillary facilities and equipment in the state;

(iii) The maximum investment in a qualifying environmental project that is eligible for the credits provided under this subdivision (3)(J) is one hundred million dollars ($100,000,000), inclusive of all capital investment and other direct and indirect costs of the project. To be eligible for the credits provided under this subdivision (3)(J), construction of the qualifying environmental project must have commenced on or after January 1, 2011, and construction of the qualifying environmental project must be substantially complete on or before January 1, 2014. The credits provided under this subdivision (3)(J) shall first be available in the later of the year in which the qualifying environmental project is substantially complete or July 1, 2013;

(iv) As a condition to receiving credits under this subdivision (3)(J), the owner of a qualifying environmental project shall agree to maintain an annual average of at least three hundred fifty (350) jobs in the state that meet the requirements set forth in § 67-4-2109(a)(6)(A) for a period of six (6) years after substantial completion of the qualifying environmental project. In the event the owner does not maintain the required number of qualified jobs in a specific year, the annual credit provided under this subdivision (3)(J) for that year shall be reduced in proportion to the percentage of the shortfall;

(v) As a further condition to receiving credits under this subdivision (3)(J), the owner of a qualifying environmental project shall agree to forego any and all claims for credits that may be available to the owner pursuant to § 67-4-2109(b)(1) and (2) in connection with the qualifying environmental project;

(vi) This subdivision (3)(J) shall expire on July 1, 2015; provided, that any taxpayer that has filed a business plan with the department prior to July 1, 2015, shall continue to be eligible for the credit;

(4) A hospital company filing a franchise/excise tax return on a combined basis as required in § 67-4-2014(e), together with all other members of its combined group filing with it, shall be allowed as a credit against the combined annual franchise/excise tax imposed an amount equal to the lesser of the franchise tax or excise tax so that the combined annual franchise/excise tax of the combined group shall be limited to the greater of the two (2) of them; provided, that this credit shall not apply to tax years beginning on or after January 1, 2007;

(5) A hospital company filing a franchise/excise tax return on a combined basis as described in § 67-4-2014(e), together with all members of its
combined group filing with it, shall be allowed as a further credit against the combined annual franchise/excise tax imposed on the group remaining after application of the credit allowed under subdivision (4) an amount equal to four percent (4%) of the cost of medical supplies and medical equipment used by or placed in service by the members of the controlled group in this state during the tax year; provided, that the aggregate amount of the credit allowed to a taxpayer under subdivision (4), together with the credit allowed to a taxpayer under this subdivision (5), shall not exceed nine million dollars ($9,000,000) in any one (1) tax year; and provided, further, that the credit allowed under this subdivision (5) shall not apply to tax years beginning on or after January 1, 2007. A corporation or other entity shall be deemed to have used or placed in service medical supplies and medical equipment used or placed in service by a partnership or limited liability company of which it is a partner or member that would be a hospital company, as defined in § 67-4-2004, if it were a corporation or other entity upon which tax is imposed under this part and part 21 of this chapter, and would be a member of its same controlled group, as defined in § 267(f)(1) of the Internal Revenue Code of 1986, codified in 26 U.S.C. § 267(f)(1), if it were a corporation and its partners or members were shareholders. The amount of the cost of such medical supplies and medical equipment that is attributed to and deemed to have been used or placed in service by such corporation or other entity shall be equal to the pro rata portion of the cost of medical supplies and medical equipment used or placed in service by the partnership or limited liability company in the tax year. Such pro rata portion shall be determined based upon the corporation’s or other entity’s percentage of the profits and losses of such partnership or limited liability company during such tax year. As used in this subdivision (5), “medical equipment” has the same meaning as “major medical equipment” as set forth in § 68-11-102(10) [repealed], but without the limitation therein as to the cost thereof; and “medical supplies” means all apparatus, consumable products, appliances, and other tangible personal property, except drugs and medicines, used in provision of patient health care services, including all recordkeeping and documentation in connection with such services;

(6)(A) 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 tax credit incurred by the predecessor taxpayer shall be allowed as a credit on the tax return filed by the successor taxpayer. With the exception set forth in subdivision (6)(B), a credit carryforward may be taken only by the taxpayer that generated it;

(B) Notwithstanding the provisions contained in subdivision (6)(A), 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 credit carryover of the predecessor that merged out of existence shall be available for carryover on the return of the surviving successor; provided, that the time limitations for the carryover have not expired;

(C) A unitary group of financial institutions may take any qualified credit 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 credit 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 credit was a member of that group; and provided, further, that the credit carryover shall be subject to the limitations set forth in this subdivision (6);

(7) A credit shall be allowed against the tax imposed by this part in an amount equal to the tax imposed by chapter 2 of this title paid by the taxpayer;

(8)(A) Except as otherwise provided in subdivision (8)(D), there shall be allowed against the sum total of the taxes imposed by the franchise tax law, compiled in part 21 of this chapter, and by the excise tax law, compiled in this part, a credit equal to fifty percent (50%) of the purchase price of brownfield property purchased in Tennessee during the tax period covered by the return for the purpose of a qualified development project;

(B) For the purposes of this subdivision (8), unless the context otherwise requires:

(i) “Brownfield property” means real property that is the subject of an investigation or remediation as a brownfield project under a voluntary agreement or consent order pursuant to § 68-212-224;

(ii) “Capital investment” means a business investment in real property, tangible personal property or computer software owned or leased in this state valued in accordance with generally accepted accounting principles. A capital investment shall be deemed to have been made as of the date of payment or the date the taxpayer enters into a legally binding commitment or contract for purchase or construction;

(iii) “Investment period” means a period not to exceed five (5) years from the filing of the business plan related to the required capital investment, during which the required capital investment must be made;

(iv) “Non-prime agricultural property” means real property included within the United States department of agriculture land capability classification Classes IV, V, VI, VII and VIII; and

(v) “Qualified development project” means a project consisting of a capital investment of at least twenty-five million dollars ($25,000,000), utilizing at least five (5) acres of brownfield property, or non-prime agricultural property as provided in subdivision (8)(G), and having a business plan approved by the commissioner of revenue in accordance with the applicable provisions of subdivision (8)(E) or (8)(G);

(C) The credit allowed pursuant to this subdivision (8) shall apply against the excise tax imposed by this part and the franchise tax imposed by part 21 of this chapter; provided, however, that such credit, together with any carry-forward thereof, taken on any franchise and excise tax return shall not exceed fifty percent (50%) of the combined franchise and excise tax liability shown by the return before any credit is taken. Any credit authorized under this subdivision (8)(C) that is unused may be carried forward in any tax period until the credit is taken; provided, that the credit may not be carried forward for more than fifteen (15) years;

(D) If the taxpayer makes an enhanced capital investment equal to or in excess of two hundred million dollars ($200,000,000) during the investment period for the qualified development project, the credit allowed in subdivision (8)(A) shall be equal to seventy-five percent (75%) of the purchase price of the brownfield property purchased in Tennessee for the purpose of the project;
(E)(i) The taxpayer shall file a business plan for the development project with the commissioner of revenue in order to qualify for the credit provided in subdivision (8)(A) or the enhanced credit provided in subdivision (8)(D);

(ii) For purposes of the enhanced credit, the business plan shall be filed on or before the last day of the first fiscal year in which the investment is made and shall describe the capital investment;

(iii) Qualifying plans shall be approved by the commissioner of revenue. At such time, an approval letter authorizing the credit, the value of the credit and the terms of the credit shall be issued. A copy of the approval letter shall be filed by the taxpayer with the department of revenue in any year in which the taxpayer utilizes the credit;

(iv) The commissioner of revenue has the authority to conduct audits or require the filing of additional information necessary to substantiate or adjust the findings contained within the business plan and to determine that the taxpayer has complied with all statutory requirements so as to be entitled to the credit in this subdivision (8);

(F) The credit provided in this subdivision (8) shall begin to apply in the first year of the investment period as provided in the business plan; however, if the capital investment is not met during the investment period, the taxpayer shall be subject to an assessment equal to the amount of any credit taken under this subdivision (8) for which the taxpayer failed to qualify, plus interest;

(G) The aggregate amount of the credits allowed to all taxpayers under this subdivision (8) shall not exceed ten million dollars ($10,000,000) in any one (1) tax year; provided, that in any tax year in which it is determined that credits remain available, the commissioner of revenue and the commissioner of economic and community development, in consultation with the commissioner of agriculture, may open availability to qualified development projects utilizing non-prime agricultural property. Credits for projects utilizing non-prime agricultural property shall be issued in the same manner and under the same terms as credits allowed for projects utilizing brownfield property except that all business plans for such projects shall be approved by the commissioner of economic and community development, in consultation with the commissioner of agriculture, in addition to the commissioner of revenue; and

(H) Notwithstanding any provision of this subdivision (8) to the contrary, no credit shall be allowed unless the commissioner of revenue and the commissioner of economic and community development determine, in their sole discretion, that the credit is in the best interest of the state. For purposes of this subdivision (8)(H), “best interest of the state” means a determination by the commissioner of revenue and the commissioner of economic and community development that the project is a result of the credit provided in this subdivision (8).

(9) [Deleted by 2019 amendment.]

67-4-2109. Credit for gross premiums tax and job tax.

(a) As used in subsection (b):

(1) “Best interests of the state” means a determination by the commissioner of revenue and the commissioner of economic and community devel-
opment that the capital investment or jobs are a result of the credit provided in this section. In addition to its use in subsection (b), the definition in this subdivision (a)(1) shall apply to this section in its entirety unless otherwise specifically provided;

(2)(A) “Enhancement county” means a county that meets one (1) of the following criteria for any month during the twenty-four (24) months immediately prior to the creation of any qualified job for which a job tax credit is sought pursuant to subsection (b), based on monthly statistics from the department of labor and workforce development:

(i) The average number of dislocated workers in the county exceeds the average number of dislocated workers in this state; or

(ii) The per capita income of the county is less than Tennessee’s average per capita income;

(B) Notwithstanding subdivision (a)(2)(A), based on an annual evaluation as of July 1 of each year, the commissioner of economic and community development may determine that a county qualifies as an enhancement county if the county experiences substantial characteristics of economic distress, including, but not limited to, major loss of employment, recent high unemployment rates, traditionally low levels of family incomes, high levels of poverty and high concentrations of employment in declining industries;

(C) Upon determining that a county qualifies as an enhancement county under subdivision (a)(2)(A) or (a)(2)(B), the department of economic and community development shall designate the county as a tier 1, tier 2, tier 3, or tier 4 enhancement county based on unemployment, per capita income, and poverty levels of all Tennessee counties using statistical data prepared by any agency of the state or federal government no later than July 1 of each year. A list of all tier 1, tier 2, tier 3, and tier 4 enhancement counties shall be published annually by the department of economic and community development;

(3) “Industrial wage job” means a qualified job with wages equal to or greater than the state’s average occupational wage, as defined in § 67-4-2004, for the month of January of the year during which the job was created;

(4) “Investment period” means the period during which qualified jobs are created as a result of the required capital investment; provided, however, that the period shall not exceed three (3) years from the effective date of the business plan;

(5) “Qualified business enterprise” means an enterprise:

(A) In which the business has made the required capital investment necessary to permit the creation or expansion of manufacturing, warehousing and distribution, processing tangible personal property, research and development, computer services, call centers, headquarters facilities, as defined in § 67-6-224(b), back office operations, convention or trade show facilities, or tourism-related businesses, including, but not limited to, restaurants, lodging establishments, or other tourism-related attractions;

(B) In which the business has made the required capital investment necessary to permit the creation or expansion of a repair service facility primarily engaged in providing repairs for aircraft owned by unrelated commercial, governmental or foreign persons; or

(C) That promotes high-skill, high-wage jobs in high-technology areas, emerging occupations or skilled manufacturing jobs in which the business
has made the required capital investment necessary to permit an increase in the number of qualified jobs in that county and that receives an approval from the commissioner of revenue and the commissioner of economic and community development in a manner prescribed by the department of revenue;

(6) “Qualified job” means a job that meets all of the following criteria:

(A) Except as provided in subdivision (a)(6)(A)(ii), the job position is a permanent, rather than seasonal or part-time, employment position providing employment in a qualified business enterprise for at least twelve (12) consecutive months to a person for at least thirty-seven and one-half (37½) hours per week with minimum health care, as described in the Tennessee Small Employer Group Health Coverage Reform Act, compiled in title 56, chapter 7, part 22; or

(ii) A majority of the duties that the job position entails involve adventure tourism, as defined in § 11-11-203; the qualified business enterprise that created the job position is located in an area designated as an adventure tourism district pursuant to § 11-11-204(c); and the job position is:

(a) A permanent employment position created on or after July 1, 2017, providing employment in a qualified business enterprise for at least twelve (12) consecutive months to a person for at least thirty-seven and one-half (37½) hours per week with or without minimum health care, as described in the Tennessee Small Employer Group Health Coverage Reform Act;

(b) A position providing seasonal employment, as defined in § 50-7-306 for at least twenty-six (26) consecutive weeks, created on or after July 1, 2017, with or without minimum health care, as described in the Tennessee Small Employer Group Health Coverage Reform Act; provided, that, for the purpose of calculating the number of jobs that a qualified business has created under subdivision (b)(1)(C) in order to qualify for the job tax credit, a position of seasonal employment shall be counted as one-half (½) of one (1) job; or

(c) A position providing part-time employment for at least twenty (20) hours per week for twelve (12) consecutive months, created on or after July 1, 2017, with or without minimum health care, as described in the Tennessee Small Employer Group Health Coverage Reform Act; provided, that, for the purpose of calculating the number of jobs that a qualified business has created under subdivision (b)(1)(C) in order to qualify for the job tax credit, a position of part-time employment shall be counted as one-half (½) of one (1) job;

(B) The job position is newly created in this state, and:

(i) For a permanent position under subdivision (a)(6)(A)(i), for at least ninety (90) days prior to being filled by the taxpayer, the job position did not exist in this state as a job position of the taxpayer or of another business entity; or

(ii) For a permanent, part-time, or seasonal position under subdivision (a)(6)(A)(ii), for at least thirty-six (36) months prior to being filled by the taxpayer, the job position did not exist in this state as a job position of the taxpayer or of another business entity;

(C) The job position is filled; provided, however, that a position will be deemed filled if it subsequently becomes vacant but is refilled within a
period of not more than ninety (90) days; and

(D) In the case of back office operations job positions under subdivision (a)(5)(A), the job position must meet the definition of industrial wage job under subdivision (a)(3); and

(7) “Required capital investment”, except for convention or trade show enterprises, means an investment of five hundred thousand dollars ($500,000) in real property, tangible personal property or computer software owned or leased in this state valued in accordance with generally accepted accounting principles. For businesses engaged in convention or trade show enterprises, “required capital investment” means an investment of ten million dollars ($10,000,000) in such property in the same manner described for other enterprises. A capital investment shall be deemed to have been made as of the date of payment or the date the business enterprise enters into a legally binding commitment or contract for purchase or construction.

(b)(1) Job Tax Credit; General Provisions.

(A) Subject to the requirements set forth in this subsection (b), there shall be allowed to any qualified business enterprise that makes the required capital investment a credit equal to four thousand five hundred dollars ($4,500) for each qualified job created during the investment period.

(B) The qualified business enterprise shall file a business plan with the commissioner in order to qualify for the credit provided by this subsection (b). The business plan shall be filed in a manner prescribed by the commissioner and shall describe the investment to be made, the number of jobs the investment will create, the expected dates the jobs will be filled and the effective date of the plan.

(C) In order to qualify for the credit, the qualified business enterprise must, within the investment period, make the required capital investment and create at least twenty-five (25) qualified jobs; provided, that if the qualified business enterprise is located in a tier 3 enhancement county, the qualified business enterprise must, within the investment period, make the required capital investment and create at least twenty (20) qualified jobs; provided further, that if the qualified business enterprise is located in a tier 4 enhancement county, the qualified business enterprise must, within the investment period, make the required capital investment and create at least ten (10) qualified jobs. The credit provided in subdivision (b)(1)(A) shall first apply in the tax year in which the qualified business enterprise first satisfies the capital investment and job creation requirements and in subsequent tax years within the investment period in which further net increases occur above the level of employment established when the credit was last taken.

(D) The credit shall apply against the franchise tax imposed by this part and the excise tax imposed by part 20 of this chapter; provided, however, that the credit, together with any carry-forward thereof, taken on any franchise and excise tax return shall not exceed fifty percent (50%) of the combined franchise and excise tax liability shown on the return before any credit is taken. Any unused credit may be carried forward in any tax period until the credit is taken; provided, however, that the credit may not be carried forward for more than fifteen (15) years.

(E) The commissioner of revenue has the authority to conduct audits or require the filing of additional information necessary to substantiate or
adjust the findings contained within the business plan and to determine
that the business enterprise has complied with all statutory requirements
so as to be entitled to the credit.

(F) Nothing in this subsection (b) shall require that the taxpayer
establish its commercial domicile in this state in order to receive the credit
provided in this subsection (b).

(2) Job Tax Credit; Additional Annual Credit. In addition to the
credit allowed in subdivision (b)(1), the following tax credit shall be allowed
in the circumstances described; provided, that the taxpayer otherwise meets
all of the requirements of subdivision (b)(1):

(A) If the qualified business enterprise is located in a tier 2, tier 3, or
tier 4 enhancement county, an annual credit shall be allowed as follows:

(i) If the qualified business enterprise is located in a tier 2 enhance-
ment county, the additional annual credit shall be allowed for a period
of three (3) years beginning with the first tax year in which the qualified
business enterprise applies the credit in accordance with subdivision
(b)(2)(D);

(ii) If the qualified business enterprise is located in a tier 3 enhance-
ment county, the additional annual credit shall be allowed for a period
of five (5) years beginning with the first tax year in which the qualified
business enterprise applies the credit in accordance with subdivision
(b)(2)(D);

(iii) If the qualified business enterprise is located in a tier 4 enhance-
ment county, the additional annual credit shall be allowed for a period
of five (5) years beginning with the first tax year in which the qualified
business enterprise applies the credit in accordance with subdivision
(b)(2)(D); and

(iv) The additional annual credit shall equal four thousand five
hundred dollars ($4,500) for each qualified job; provided, that the job
remains filled by employees during the year in which the credit is taken.
This annual credit may be used to offset up to one hundred percent
(100%) of the taxpayer's franchise and excise tax liability for that year.
Any unused annual credit, however, shall not be carried forward beyond
the year in which the credit originated;

(B) If the qualified business enterprise involves a higher level of
investment and job creation, as specifically described in subdivisions
(b)(2)(B)(i)-(v), an annual credit shall be allowed as follows:

(i) If the investment exceeds one billion dollars ($1,000,000,000) and
at least five hundred (500) industrial wage jobs are created, the
additional annual credit shall be allowed for a period of twenty (20)
years beginning with the first tax year in which the qualified business
enterprise applies the credit in accordance with subdivision (b)(2)(D);

(ii) If the investment exceeds five hundred million dollars
($500,000,000) and at least five hundred (500) industrial wage jobs are
created, the additional annual credit shall be allowed for a period of
twelve (12) years beginning with the first tax year in which the qualified
business enterprise applies the credit in accordance with subdivision
(b)(2)(D);

(iii) If the investment exceeds two hundred fifty million dollars
($250,000,000) and at least two hundred fifty (250) industrial wage jobs
are created, the additional annual credit shall be allowed for a period of six (6) years beginning with the first tax year in which the qualified business enterprise applies the credit in accordance with subdivision (b)(2)(D);

(iv) If the investment exceeds one hundred million dollars ($100,000,000) and at least one hundred (100) industrial wage jobs are created, the additional annual credit shall be allowed for a period of three (3) years beginning with the first tax year in which the qualified business enterprise applies the credit in accordance with subdivision (b)(2)(D);

(v) If the investment exceeds ten million dollars ($10,000,000) and at least one hundred (100) qualified jobs are created that also meet the definition of headquarters staff employees under § 67-6-224 and pay at least one hundred fifty percent (150%) of the state’s average occupational wage for the month of January of the year in which the jobs are created, the additional annual credit shall be allowed for a period of three (3) years beginning with the first tax year in which the qualified business enterprise applies the credit in accordance with subdivision (b)(2)(D);

(vi) The additional annual credit shall equal five thousand dollars ($5,000) for each job specifically described in subdivisions (b)(2)(B)(i)-(v); provided, that the jobs remain filled during the year in which the credit is being taken. This annual credit may be used to offset up to one hundred percent (100%) of the taxpayer’s franchise and excise tax liability for that year. Any unused annual credit, however, shall not be carried forward beyond the year in which the credit originated;

(vii) The taxpayer shall be allowed a period not to exceed three (3) years from the effective date of the business plan in order to make the required capital investment necessary to qualify for the additional annual credit allowed under this subdivision (b)(2)(B). If determined to be in the best interests of the state, the three-year period for making the required investment may be extended by the commissioner of economic and community development for a reasonable period not to exceed two (2) additional years, or four (4) additional years if the investment exceeds one billion dollars ($1,000,000,000).

(C) If the qualified business enterprise is located in an area designated as an adventure tourism district pursuant to § 11-11-204(c), an annual credit shall be allowed as follows:

(i) If the qualified business enterprise is located in a tier 1 enhancement county, the additional annual credit shall be allowed if the qualified business enterprise creates at least twenty-five (25) qualified jobs;

(ii) If the qualified business enterprise is located in a tier 2 enhancement county, the additional annual credit shall be allowed if the qualified business enterprise creates at least nineteen (19) qualified jobs;

(iii) If the qualified business enterprise is located in a tier 3 enhancement county, the additional annual credit shall be allowed if the qualified business enterprise creates at least thirteen (13) qualified jobs;

(iv) If the qualified business enterprise is located in a tier 4 enhancement county, the additional annual credit shall be allowed if the
qualified business enterprise creates at least ten (10) qualified jobs;

(v) The additional annual credit shall be allowed for a period of three (3) years for a qualified business enterprise located in a tier 1 or tier 2 enhancement county, beginning with the first tax year in which the qualified business enterprise applies the credit in accordance with subdivision (b)(2)(D);

(vi) The additional annual credit shall be allowed for a period of five (5) years for a qualified business enterprise located in a tier 3 or tier 4 enhancement county, beginning with the first tax year in which the qualified business enterprise applies the credit in accordance with subdivision (b)(2)(D); and

(vii) The additional annual credit shall equal four thousand five hundred dollars ($4,500) for each qualified job; provided, that the job remains filled by employees during the year in which the credit is being taken. This annual credit may be used to offset up to one hundred percent (100%) of the taxpayer's franchise and excise tax liability for that year. Any unused annual credit, however, shall not be carried forward beyond the year in which the credit originated.

(D) The qualified business enterprise may first apply the credit provided in this subdivision (b)(2) in any tax year after the qualified business enterprise has met all of the requirements of subdivisions (b)(1) and (b)(2); provided, however, that the qualified business enterprise must begin to apply the credit no later than the first tax year following the end of the investment period.

(E) Notwithstanding any provision to the contrary, the circumstances described in subdivisions (b)(2)(A)(i)-(ii) and (b)(2)(B)(i)-(v) shall be deemed to be mutually exclusive and a taxpayer shall not receive a credit under more than one (1) such subdivision for jobs created during a single investment period.

(3) Job Tax Credit; Special provisions. This subdivision (b)(3) shall serve as exceptions to subdivisions (b)(1) and (2). To the extent a conflict exists between this subdivision (b)(3) and subdivision (b)(1) or (b)(2), this subdivision (b)(3) shall control. Otherwise, subdivisions (b)(1) and (2) shall apply to any credits provided under this subsection (b):

(A) The job tax credit allowed in subdivision (b)(1) shall be increased from four thousand five hundred dollars ($4,500) to five thousand dollars ($5,000) if the qualified business enterprise qualifies for the additional annual credit allowed in subdivision (b)(2)(B);

(B) [Deleted by 2019 amendment.]

(C) If the qualified business enterprise is located in a tier 2 enhancement county, the taxpayer shall have three (3) years in order to create the minimum number of qualified jobs necessary to receive the credit. If the qualified business enterprise is located in a tier 3 or tier 4 enhancement county, the taxpayer shall have five (5) years to create the minimum number of qualified jobs necessary to receive the credit;

(D)(i) If the required capital investment exceeds one billion dollars ($1,000,000,000), the time limitations otherwise applicable to the carry-forward of unused job tax credits under subdivision (b)(1)(D) and subdivision (b)(2)(B)(vi) shall not apply, and any unused credit may be carried forward until fully utilized, if the commissioner of revenue and the commissioner of economic and community development have determined that the allowance of the additional carry-forward is in the best
interests of the state;

(ii) Subdivision (b)(3)(D)(i) 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;

(E) The commissioner of revenue, with the approval of the commissioner of economic and community development, is authorized to approve job tax credit in cases where the newly created position existed in this state as a job position of the taxpayer or of another business entity less than ninety (90) days prior to being filled by the taxpayer; provided, that all other requirements to obtain the credit have been satisfied by the taxpayer; and provided, further, that the commissioner of revenue and the commissioner of economic and community development have determined that allowance of the credit is in the best interests of the state;

(F) A taxpayer that has established its international, national or regional headquarters in this state and has met the requirements to qualify for the credit provided in § 67-6-224, or a taxpayer that has established an international, national or regional warehousing or distribution hub in this state and has met the requirements to be a qualified new or expanded warehouse or distribution facility, shall be allowed to offset up to one hundred percent (100%) of its franchise or excise, or both, tax liability by job tax credits, or any carry-forward of the job tax credits, if the commissioner of revenue and the commissioner of economic and community development determine that increasing the percentage of offset permitted to the taxpayer is in the best interests of the state. The commissioner of revenue and the commissioner of economic and community development shall determine the percentage of franchise or excise, or both, tax liability allowed to be offset by this subdivision (b)(3)(F) that otherwise allowed by subdivision (b)(1) and the period during which the increased offset shall continue;

(G) The credits otherwise provided in this subsection (b) shall be allowed for new high-skill, high-wage, qualified jobs in high-technology areas, emerging occupations or skilled manufacturing, regardless of whether net employment is increased; provided, however, that this subdivision (b)(3)(G) shall apply only to new jobs created by a taxpayer who failed to meet the net increase requirement due to worker layoffs or reductions, where such workers have been certified by the federal department of labor's division of trade adjustment assistance as having been adversely affected by foreign trade, so as to be eligible for assistance in accordance with the federal Trade Adjustment Assistance Reform Act of 2002, compiled in U.S.C. title 19. A taxpayer seeking qualification for jobs tax credits under this subsection (b) shall be required to satisfy all other requirements of this subsection (b), and shall be required to provide evidence to the commissioner of revenue of the department of labor's certification of eligibility for assistance for the taxpayer's adversely affected worker group;

(H) [Expired July 1, 2015; see (3)(H)(ii)]

(i) The credits provided by this subsection (b) may be computed by a general partnership that establishes and operates a call center in Tennessee that is placed in service by the general partnership on or after June 30, 2003, and that would otherwise qualify for the job tax credit provided in this subsection (b); provided, that the credit shall first apply
in the tax year in which the qualified business enterprise increases net full-time employment by four hundred (400) or more jobs, and shall then apply in those subsequent fiscal years in which further net increases occur above the level of employment established when the credit was last taken. The credit provided in this subsection (b) may also be computed by a general partnership that has established an international, national or regional headquarters in this state that meets the definition of a qualified headquarters facility under § 67-6-224 and would otherwise qualify for the job tax credits provided in this subsection (b). The amount of the credit shall be computed under this subsection (b) as if the general partnership were subject to franchise and excise tax under part 20 of this chapter and this part. With respect to the general partnership tax year during which a credit is so computed, a partner in the general partnership that is subject to Tennessee franchise and excise tax and that directly holds a first tier ownership interest in the general partnership may take a percentage of the credit that equals the total amount of the credit for the general partnership multiplied by the partner's percentage interest in the general partnership on the last day of the general partnership tax year against the partner's franchise and excise tax liability for the partner's tax year that includes the last day. The job tax credit passed through from the general partnership to the first tier partner under this subsection (b) shall, in the hands of the first tier partner, be subject to applicable provisions and limitations otherwise provided by this subsection (b), including carry-forward provisions; provided, that in no case shall the credit or a carryover thereof be taken by a business entity, unless it was a partner in the general partnership and subject to franchise and excise tax at the time the credit was earned by the general partnership;

(ii) This subdivision (b)(3)(H) shall expire on July 1, 2015; provided, that any taxpayer that has filed a business plan with the department prior to July 1, 2015, shall continue to be eligible for the credit;

(I) [Deleted by 2019 amendment.]

(J) [Expired July 1, 2015; see (3)(J)(ii)]

(i) Any airline company that has established its international, national or regional headquarters in this state and has met the requirements to qualify for the credit provided in § 67-6-224 may elect to convert any available and unused job tax credit created under subdivision (b)(1) and any available and unused additional annual credit created under subdivision (b)(2) into a refundable credit which shall be discounted to net present value using the interest rate in effect pursuant to § 67-1-801 on the date of such election; provided, however, that the election shall be available only if the commissioner of revenue and the commissioner of economic and community development determine that allowance of the election is in the best interests of the state;

(ii) This subdivision (b)(3)(J) shall expire on July 1, 2015; provided, that any taxpayer that has filed a business plan with the department prior to July 1, 2015, shall continue to be eligible for the credit.

(c) In accordance with § 56-4-217, there shall be credited upon the tax imposed by this part the net amount of gross premiums tax paid that is measured by a period that corresponds to the franchise tax period on which the return is based, plus any amount used to offset payment to the Tennessee
guaranty association that has not otherwise been recovered, but not including
the gross premiums receipts tax paid by fire insurance companies for the
purpose of executing the fire marshal law.

(d) When an audit of a tax return for any year not barred by the statute of
limitations discloses a change in the amount of tax due, there may be applied
upon it as a credit any amount that the taxpayer is otherwise entitled to
receive either as a credit under parts 4-6 of this chapter for franchise taxes
paid, or as a refund thereof under § 67-1-707. This tax credit allowance may be
applied, notwithstanding the statute of limitations or the requirement for
approval of certain refunds by the commissioner and the attorney general and
reporter, if such was made under § 67-1-707, and also any statutory or
regulatory requirement under various sections of parts 4-6 of this chapter that
the franchise tax be paid prior to the allowance of any credit.

(e)(1) Each taxpayer is considered a separate entity; therefore, in the case of
mergers, consolidations, and like transactions, no tax credit incurred by the
predecessor taxpayer shall be allowed as a deduction on the tax return filed
by the successor taxpayer. With the exception set forth in subdivision (e)(2),
a credit carryforward may be taken only by the taxpayer that generated it.

(2) Notwithstanding the provisions contained in subdivision (e)(1), 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 credit carryover of the predecessor that merged out of existence
shall be available for carryover on the return of the surviving successor;
provided, that the time limitations for the carryover have not expired.

(3) A unitary group of financial institutions may take any qualified credit
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 credit 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 credit was a member of that group; and provided,
further, that the credit carryover shall be subject to the limitations set forth
in this subsection (e).

(f)(1) As used in this subsection (f), unless the context otherwise requires:

(A) “Full-time employee job” means a permanent, rather than seasonal
or part-time, employment position, providing employment for at least
twelve (12) consecutive months, to a person for at least thirty-seven and
one half (37.5) hours per week, if that person is enrolled in minimal health

care benefits, as described in title 56, chapter 7, part 22; and

(B) “Part-time employee job” means a part-time employment position,
providing employment for at least twelve (12) consecutive months, to a
person for at least ten (10) hours per week.

(2) A job tax credit of five thousand dollars ($5,000) for each net new
full-time employee job, and two thousand dollars ($2,000) for each net new
part-time employee job, for a person with disabilities who is receiving state
services directly related to such disabilities, shall be allowed against a
taxpayer’s franchise and excise liability tax for that year; provided, that:

(A) The employment of such individual creates a net increase in the
number of persons with disabilities employed by the taxpayer within the
ninety-day period immediately preceding the employment;

(B) The taxpayer provides such employment for at least twelve (12)
consecutive months and for no less than the minimal hours per week; and
for employees enrolled in the minimal health care benefits described in subdivision (f)(1), for respective full-time employment jobs and part-time employment jobs;

(C) The credit allowed by this subdivision (f)(2) for the employment of persons with disabilities shall first apply in the tax year in which the taxpayer increases net new employment of such persons by one (1) or more, and in those subsequent fiscal years in which further net increases occur above the level of such employment established when the credit was last taken;

(D) The taxpayer is not required to make a capital investment in a qualified business enterprise in order to receive the credit allowed by this subdivision (f)(2) for the employment of persons with disabilities; and

(E) The credit provided by this subdivision (f)(2) may be granted only to taxpayers who participate in an existing employment incentive program, pursuant to which persons with disabilities are being served by the department of mental health and substance abuse services, the department of intellectual and developmental disabilities, the division of rehabilitation services of the department of human services, council on developmental disabilities, or any other similar state employment incentive program. Such employment incentive programs shall annually provide to the commissioner of revenue for approval, on or before July 1, a list of their existing employment incentive programs promoting the hiring of disabled individuals.

(3) The taxpayer shall file a plan with the commissioner of revenue, on a form prescribed by the commissioner, in order to qualify for the credit. The form shall be filed on or before the last day of the fiscal year in which the employment begins, and shall state the number of persons with disabilities newly employed. The commissioner of revenue shall certify a taxpayer’s participation in one (1) of these programs and the number of persons employed by the taxpayer meeting the criteria established by this subsection (f).

(4) The commissioner of revenue has the authority to conduct audits or require the filing of additional information necessary to substantiate or adjust the amount of credit allowed by this subsection (f), and to determine that the taxpayer has complied with all statutory requirements so as to be entitled to the job tax credit.

(5) Subdivision (b)(1)(D), relating to the carryforward of any unused job tax credit, shall apply to the credit allowed by this subsection (f).

(g) [Expired July 1, 2015; see (g)(11)]

(1) For purposes of this subsection (g), “headquarters facility,” “headquarters staff employees,” “investment period,” “new full-time employee job,” “qualified headquarters facility,” and “qualified headquarters facility relocation expenses” shall have the same meanings as defined in § 67-6-224.

(2) In addition to the job tax credit provided in subsection (b), there is allowed a credit against a taxpayer’s franchise and excise tax liability equal to any qualified headquarters facility relocation expenses incurred by the taxpayer during the investment period; provided, that the taxpayer meets one (1) of the following criteria:

(A) The taxpayer creates at least one hundred (100) but less than two hundred fifty (250) net new full-time employee jobs that pay at least one hundred fifty percent (150%) of this state’s average occupational wage;
(B) The taxpayer creates at least two hundred fifty (250) but less than five hundred (500) net new full-time employee jobs that pay at least one hundred fifty percent (150%) of this state’s average occupational wage;

(C) The taxpayer creates at least five hundred (500) but less than seven hundred fifty (750) net new full-time employee jobs that pay at least one hundred fifty percent (150%) of this state’s average occupational wage;

(D) The taxpayer creates at least seven hundred fifty (750) net new full-time employee jobs that pay at least one hundred fifty percent (150%) of this state’s average occupational wage; or

(E) The taxpayer creates at least five hundred (500) net new full-time employee jobs in connection with a capital investment in excess of one billion dollars ($1,000,000,000).

(3) Notwithstanding any law to the contrary, the total credit allowed to a taxpayer under this subsection (g) shall not exceed the appropriate dollar amount listed in one (1) of the following subdivisions (g)(3)(A)-(E), multiplied by the number of headquarters staff employee positions relocated by the taxpayer to the qualified headquarters facility during the investment period:

(A) For a taxpayer meeting the requirements in subdivision (g)(2)(A), ten thousand dollars ($10,000);

(B) For a taxpayer meeting the requirements in subdivision (g)(2)(B), twenty thousand dollars ($20,000);

(C) For a taxpayer meeting the requirements in subdivision (g)(2)(C), thirty thousand dollars ($30,000);

(D) For a taxpayer meeting the requirements in subdivision (g)(2)(D), forty thousand dollars ($40,000); and

(E) For a taxpayer meeting the requirement in subdivision (g)(2)(E), one hundred thousand dollars ($100,000).

(4) To the extent any amount allowed as a credit under this subsection (g) exceeds the combined tax imposed by this part and by part 20 of this chapter, the amount of such excess shall be considered an overpayment and shall be refunded to the taxpayer. Such refund shall be subject to the procedures of § 67-1-1802; provided, however, notwithstanding any procedure of § 67-1-1802 to the contrary, that a claim for refund must be filed with the commissioner within three (3) years from December 31 of the year in which the qualified headquarters facility relocation expense was incurred.

(5) If the qualified headquarters facility is not utilized as a headquarters facility for a period of at least ten (10) years from the end of the investment period, the taxpayer shall be subject to an assessment of tax, plus applicable interest, calculated in accordance with this subdivision (g)(5). The amount of tax assessed under this subdivision (g)(5) shall equal the total credit or refund, or both, taken pursuant to this subsection (g) multiplied by a fraction, the numerator of which is the number of years the facility is not utilized as a headquarters facility and the denominator of which is ten (10). The amount of interest shall be calculated in accordance with § 67-1-801 from the date the facility is no longer utilized as a headquarters facility until the date paid.

(6)(A) If the headquarters staff employee position is not filled in Tennessee during the investment period, the taxpayer shall be subject to an assessment of the total amount of credit or refund taken relating to such employee position pursuant to this subsection (g) plus interest; and

(B) If the headquarters staff employee position does not remain filled in Tennessee for a period of at least five (5) years, beginning from the date
such employee position was initially filled in Tennessee, the taxpayer shall be subject to an assessment of the total amount of credit or refund taken relating to such employee position pursuant to this subsection (g), plus interest.

(7) Nothing in this subsection (g) shall require that the taxpayer establish its commercial domicile in this state in order to receive the credit provided in this subsection (g).

(8) The credit provided for by this subsection (g) may be computed by a general partnership that has established an international, national or regional headquarters in this state that meets the definition of a qualified headquarters facility under § 67-6-224 and has qualified for the job tax credit provided for in subsection (c). The amount of the credit shall be allowed under this section as if the general partnership were subject to franchise and excise tax under part 20 of this chapter and this part. With respect to the general partnership tax year during which a credit is so computed, a partner in the general partnership that is subject to this state's franchise and excise tax and that directly holds a first tier ownership interest in the general partnership may take a percentage of the credit that equals the total amount of the credit for the general partnership multiplied by the partner's percentage interest in the general partnership on the last day of the general partnership tax year against the partner's franchise and excise tax liability for the partner's tax year that includes the last day. The relocation expense credit passed through from the general partnership to the first tier partner under this section shall, in the hands of the first tier partner, be subject to applicable provisions and limitations otherwise provided by this section. In no case shall the credit be taken by a business entity unless it was a partner in the general partnership and subject to franchise and excise tax at the time the credit was earned by the general partnership.

(9)(i) [Deleted by 2019 amendment.]

(ii) If determined to be in the best interests of the state, the commissioner is further authorized to allow a relocation expense credit to any scrap metal processing facility relocating from a central business district or an area adjacent to the central business district and separated only by a waterway. Such credit shall be equal to the amount of relocation expenses incurred and paid by the facility but shall not exceed the amount of credit allowed under subdivision (g)(3)(E) for the relocation of staff employees of a headquarters facility.

(10) Any insurance company, as defined in § 56-1-102, that otherwise meets all of the criteria contained in this subsection (g) and would be subject to the tax imposed by this part and part 20 of this chapter if not for the exemption provided in § 67-4-2008(a)(14), shall be granted the credit provided in this subsection (g) and shall be entitled to a refund as provided in subdivision (g)(4).

(11) This subsection (g) shall expire on July 1, 2015; provided, that any taxpayer that has filed a business plan with the department prior to July 1, 2015, shall continue to be eligible for the credit.

(h)(1) There shall be allowed, for any financial institution, a credit against the sum total of the taxes imposed by the Franchise Tax Law, compiled in this part, and by the Excise Tax Law, compiled in part 20 of this chapter, an amount equal to either:

(A) Five percent (5%) of a qualified loan or qualified long-term invest-
...ment made to an eligible housing entity for any eligible activity; or

(B) Three percent (3%) annually of the unpaid principal balance of a qualified loan made to an eligible housing entity for any eligible activity as of December 31 of each year for the life of the loan or fifteen (15) years, whichever is earlier.

(2) There shall be allowed, for any financial institution, a credit against the sum total of the taxes imposed by the Franchise Tax Law, compiled in this part, and by the Excise Tax Law, compiled in part 20 of this chapter, an amount equal to either:

(A) Ten percent (10%) of a grant, contribution, or qualified low-rate loan made to an eligible housing entity for any eligible activity; or

(B) Five percent (5%) annually of the unpaid principal balance of a qualified low-rate loan made to an eligible housing entity for any eligible activity as of December 31 of each year for the life of the loan or fifteen (15) years, whichever is earlier.

(3) For purposes of this subsection (h), the following definitions shall apply:

(A) “Eligible activity” means an activity that creates or preserves affordable housing for low-income Tennesseans, an activity to help low-income Tennesseans obtain safe and affordable housing, an activity that builds the capacity of an eligible nonprofit to provide housing opportunities to low-income Tennesseans, including the construction or expansion of an office or other facility in which low-income housing related planning and educational opportunities will be provided, and any other activities approved by the executive director of the Tennessee housing development agency and the commissioner of revenue;

(B) “Eligible housing entity” means:

(i) A Tennessee nonprofit corporation with Internal Revenue Code § 501(c)(3) status (26 U.S.C. § 501(c)(3)), including an entity created and controlled by such corporation, or a wholly-owned subsidiary of such corporation, that engages in eligible activity on behalf of such corporation;

(ii) The Tennessee housing development agency;

(iii) A public housing authority, including an entity created and controlled by such authority, or a wholly-owned subsidiary of such authority, that engages in eligible activity on behalf of such authority; or

(iv) A development district, including a development district that engages in eligible activity;

(C) “Financial institution” has the definition as provided in § 67-4-2004;

(D) “Low-income” means any individual or family at or below eighty percent (80%) of the applicable area median family income as determined by family size;

(E) “Qualified loan” means a loan that is at least two percent (2%) below the prime rate, as published by the Wall Street Journal at the time the loan is approved, that does not qualify as a qualified low-rate loan;

(F) “Qualified long-term investment” means an equity investment made for a period of more than five (5) years to an eligible housing entity; and

(G) “Qualified low-rate loan” means a loan that is at least four percent (4%) below the prime rate, as published by the Wall Street Journal at the time the loan is approved.
3 In order to take the credit, the regulated financial institution must maintain a certification from the Tennessee housing development agency establishing entitlement to the credit.

5 The eligible housing entity receiving the funds must maintain such records as required by the Tennessee housing development agency, to ensure that affordable housing opportunities are being provided.

6 The department of revenue is authorized to share with the Tennessee housing development agency information necessary to effectuate the purposes of this subsection (h). The Tennessee housing development agency shall be bound by restrictions on disclosure of such information otherwise applicable to the department of revenue.

7 The commissioner of revenue and the executive director of the Tennessee housing development agency are authorized to promulgate rules and regulations to effectuate the purposes of this subsection (h). All such rules and regulations shall be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

8 Any unused credit allowed under subdivision (h)(1)(A) or (h)(2)(A) may be carried forward for fifteen (15) years after the tax year in which the credit originated. Any unused credit allowed under subdivision (h)(1)(B) or (h)(2)(B) shall not be carried forward beyond the tax year in which the credit originated.

(i) [Expired July 1, 2015; see (i)(2)]

1 A taxpayer that has established its international, national, or regional headquarters in this state and has met the requirements to qualify for the credit provided in § 67-6-224 shall be allowed a credit against the franchise tax imposed under this part equal to the rate of tax imposed under § 67-4-2007 multiplied by any net operating loss incurred by the taxpayer during the tax year covered by the return, or properly carried over from a previous tax year, in accordance with § 67-4-2006; provided, that the credit allowed in this subsection (i) shall only be available if the taxpayer is unable to use the loss or loss carryover to offset net income during the current tax year for excise tax purposes. If a net operating loss or loss carryover is used to calculate a credit under this subsection (i), it shall no longer be available as a deduction for excise tax purposes, and under no circumstances shall the same net operating loss be used for both franchise and excise tax purposes. The credit in this subsection (i) shall only be available upon a determination by the commissioner of revenue and the commissioner of economic and community development that the utilization of net operating losses or loss carryovers against the taxpayer’s franchise tax liability is in the best interests of the state. For purposes of this subsection (i), “best interests of the state” means a determination that the taxpayer established its headquarters in this state or converted a regional headquarters in this state into its national or international headquarters as a result of such action. The commissioner of revenue and the commissioner of economic and community development shall determine the period during which the credit provided by this subsection (i) shall be allowed to the taxpayer.

2 This subsection (i) shall expire on July 1, 2015; provided, that any taxpayer that has filed a business plan with the department prior to July 1, 2015, shall continue to be eligible for the credit.

(j) For purposes of this subsection (j):

A “Qualified expenses” means those expenses incurred in this state that are necessary for the production of a movie or episodic television
program in this state; provided, however, that the expenses shall not qualify under this subdivision (j)(1)(A) unless both the commissioner of revenue and the commissioner of economic and community development determine, in their sole discretion, that the production and the allowance of the credit are in the best interests of this state. For purposes of this subdivision (j)(1)(A), “best interests of this state” means a determination by the commissioner of revenue and the commissioner of economic and community development that the production is a result of the credit provided in this subsection (j) and that the production is not found to be obscene as defined in § 39-17-901;

(B) “Qualified investor” means any entity that has established a headquarters facility as defined in § 67-6-224 that has invested in a qualified production company; and

(C) “Qualified production company” means any entity that incurs at least one million dollars ($1,000,000) in qualified expenses.

(2) A credit in an amount equal to fifteen percent (15%) of any qualified expenses shall be allowed against the combined franchise and excise tax liability of any qualified production company that has established a headquarters facility as defined in § 67-6-224. If the qualified production company does not have a headquarters facility as defined in § 67-6-224, then any qualified investor shall be allowed a credit equal to the amount of credit to which the qualified production company would have been entitled had it established a headquarters facility as defined in § 67-6-224, multiplied by the qualified investor's percentage ownership interest in the qualified production company.

(3) In order for either a qualified production company or a qualified investor to become entitled to a credit under this subsection (j), the qualified production company shall submit documentation verifying that the qualified expenses have been incurred and paid.

(4) The commissioner shall review the documentation and notify the qualified production company of the approved credit.

(5) Once the qualified production company has been notified of the approved credit, either the qualified production company or the qualified investment company, as appropriate, may submit a claim for the credit. To the extent that any amount allowed as a credit under this subsection (j) exceeds the current and outstanding combined franchise and excise tax liability of the claimant, the amount of such excess shall be deemed an overpayment and shall be refunded to the claimant. For qualified expenses incurred and paid during any tax year, the commissioner is authorized to issue a refund as described in this subdivision (j)(5) prior to the expiration of such tax year if the amount of the approved credit exceeds the claimant's current and outstanding franchise and excise tax liability on the date of such refund. Any refund under this subsection (j) shall be subject to the procedures of § 67-1-1802; provided, however, notwithstanding any procedure of § 67-1-1802 to the contrary, that a claim for refund shall be filed with the commissioner within three (3) years from December 31 of the year in which the qualified expenses were incurred. In no case shall a refund for the same qualified expenses be allowed twice.

(6) The credit provided for in this subsection (j) shall not apply to tax years beginning on or after July 1, 2012; provided, that this subdivision (j)(6) shall have no effect on the right of any taxpayer to realize the benefits of any
credit provided under this subsection (j) in the event that the commissioner of revenue and the commissioner of economic and community development determine that the taxpayer’s production is in the “best interest of this state” pursuant to subdivision (j)(1)(A) and the taxpayer incurs expenses related to such production prior to July 1, 2012.

(k)(1) There shall be allowed, for any financial institution, a credit against the sum total of the taxes imposed by the Franchise Tax law, compiled in this part, and by the Excise Tax law, compiled in part 20 of this chapter, an amount equal to either:

(A) Five percent (5%) of a qualified loan or qualified long-term investment made to a community development financial institution that is certified by the United States department of the treasury’s community development financial institutions fund; or

(B) Three percent (3%) annually of the unpaid principal balance of a qualified loan made to a community development financial institution that is certified by the United States department of the treasury’s community development financial institutions fund as of December 31 of each year for the life of the loan or fifteen (15) years, whichever is earlier.

(2) There shall be allowed, for any financial institution, a credit against the sum total of the taxes imposed by the Franchise Tax law, compiled in this part, and by the Excise Tax law, compiled in part 20 of this chapter, an amount equal to either:

(A) Ten percent (10%) of a grant, contribution, or qualified low-rate loan made to a community development financial institution that is certified by the United States department of the treasury’s community development financial institutions fund; or

(B) Five percent (5%) annually of the unpaid principal balance of a qualified low-rate loan made to a community development financial institution that is certified by the United States department of the treasury’s community development financial institutions fund as of December 31 of each year for the life of the loan or fifteen (15) years, whichever is earlier.

(3) For purposes of this subsection (k):

(A) “Financial institution” has the same meaning as defined in § 67-4-2004;

(B) “Qualified loan” means a loan that is at least two percent (2%) below the prime rate, as published by the Wall Street Journal at the time the loan is approved, that does not qualify as a qualified low-rate loan;

(C) “Qualified long-term investment” means an equity investment made for a period of more than five (5) years; and

(D) “Qualified low-rate loan” means a loan that is at least four percent (4%) below the prime rate, as published by the Wall Street Journal at the time the loan is approved.

(4) Any unused credit allowed under subdivision (k)(1)(A) or (k)(2)(A) may be carried forward for fifteen (15) years after the tax year in which the credit originated. Any unused credit allowed under subdivision (k)(1)(B) or (k)(2)(B) shall not be carried forward beyond the tax year in which the credit originated.

(5) Notwithstanding § 47-14-103 or any other provision to the contrary, a community development financial institution, as described in this subsection (k), shall be allowed to charge a rate of interest not to exceed twenty-four
percent (24%) per annum.

(1) There shall be allowed, for any financial institution, a credit against the sum total of the taxes imposed by the Franchise Tax Law, compiled in this part, and the Excise Tax Law, compiled in part 20 of this chapter, in an amount equal to ten percent (10%) of the financial institution’s contribution to the Tennessee rural opportunity fund or the Tennessee small business opportunity fund. The credit provided in this subsection (l) shall be allowed each year for a period of ten (10) years, beginning with the tax year in which the contribution is made. Any unused credit allowed under this subsection (l) shall not be carried forward beyond the tax year in which the credit originated.

(2) For purposes of this subsection (l), the loaning of funds by the taxpayer to the Tennessee rural opportunity fund or the Tennessee small business opportunity fund shall constitute a contribution by the taxpayer to the Tennessee rural opportunity fund or the Tennessee small business opportunity fund. If, however, at the close of the tenth year of the period during which the credit is allowed, the taxpayer or its assignee has received repayment, or retains any right to repayment, of all or any portion of the amount contributed to the Tennessee rural opportunity fund or the Tennessee small business opportunity fund or any interest accrued thereon, the department shall be entitled to recapture the credit allowed by increasing the franchise tax liability or the excise tax liability, or both, of the taxpayer by the credit recapture amount for the first tax year following the ten-year period during which the credit is allowed. The credit recapture amount shall be equal to the total amount of credit allowed, plus interest at the rate determined under § 67-1-801 from the date the credit was offset against the taxpayer’s franchise tax liability or the excise tax liability, or both.

(m) [Expired July 1, 2015; see (m)(6)]

(1) As used in this subsection (m):

(A) “Carbon charge” means a tax or fee imposed or levied by the federal or state government, the purpose of which is to reduce the emission of greenhouse gases. “Carbon charge” may include, but is not limited to, a tax, emission fee or charge, or required purchase of carbon or emission off-sets or credits, whether incurred by or imposed directly on the certified green energy supply chain manufacturer or campus affiliate or imposed on the Tennessee Valley Authority or other applicable energy provider and billed to the certified green energy supply chain manufacturer or campus affiliate;

(B) “Certified green energy supply chain manufacturer” means any manufacturer that has made, during the investment period, a required capital investment in excess of two hundred fifty million dollars ($250,000,000) in constructing, expanding or remodeling a facility that is certified by the commissioner of revenue, the commissioner of economic and community development and the commissioner of environment and conservation, in their sole discretion, to be a facility engaged in manufacturing a product that is necessary for the production of green energy;

(C) “Charge for electricity sold” means the total delivered cost of electricity sold to the certified green energy supply chain manufacturer or campus affiliate at the point of delivery to the facility. The charge for electricity sold shall be the total amount due as shown on the customer’s electricity bills over the applicable tax year. Any carbon charge shall be excluded from the charge for electricity sold to the extent the carbon
charge is included in the credit allowed in subdivision (m)(4);

(D) “Investment period” means a period not to exceed three (3) years from the filing of the business plan related to qualification as a certified green energy supply chain manufacturer, during which the required capital investment must be made; and

(E) “Maximum certified rate” means a rate expressed as a price per kilowatt hour for calculating the green energy tax credit allowed in subdivision (m)(3) and shall be established through the issuance of a private letter ruling by the commissioner of revenue, which shall be subject to approval by the commissioner of economic and community development and the commissioner of finance and administration and any such maximum certified rate established for a green energy supply chain manufacturer shall apply to any campus affiliate.

(2) The credits provided in this subsection (m) and any other applicable credits, net operating losses or carry-forwards thereof provided and in part 20 of this chapter and this part shall be applied in the following order:

(A) Any credits, net operating losses or carry-forwards thereof available to the certified green energy supply chain manufacturer, campus affiliate, integrated customer or integrated supplier pursuant to this part or part 20 of this chapter, except for those contained in this subsection (m), shall be applied to the taxpayer's tax liability first;

(B) Any green energy tax credit available pursuant to subdivision (m)(3) shall be applied to the taxpayer's liability second and shall be refundable as provided in subdivision (m)(3) if the credit exceeds the taxpayer's remaining liability; and

(C) Any carbon tax credit available pursuant to subdivision (m)(4) shall be applied to the taxpayer's liability third and shall be refundable as provided in subdivision (m)(4) if the credit exceeds the taxpayer's remaining liability.

(3) A certified green energy supply chain manufacturer and campus affiliate, integrated customer or integrated supplier of a green energy supply chain manufacturer shall be allowed a green energy tax credit against the sum total of the taxes imposed by the Franchise Tax Law compiled in this part and the Excise Tax Law compiled in part 20 of this chapter, equal to the amount by which the charge for electricity sold to the certified green energy supply chain manufacturer, campus affiliate, integrated customer or integrated supplier exceeds the charge that would have been made for such total delivered electricity if the maximum certified rate had been applied during the applicable tax year. The Tennessee Valley authority, or the applicable energy provider, shall supply such information as deemed necessary by the commissioner of revenue to verify the amount of the credit. Consistent with subdivision (m)(2), to the extent that any amount allowed as a credit under this subdivision (m)(3), for any tax year, exceeds the combined tax imposed by part 20 of this chapter and this part after the application of all available credits other than the credit provided in subdivision (m)(4), the amount of the excess shall be considered an overpayment and shall be refunded to the taxpayer; provided, however, that the overpayment and the refund shall not exceed, for any one (1) tax year, an amount equal to one million five hundred thousand dollars ($1,500,000) for each two hundred fifty million dollars ($250,000,000) in capital investments made by the certified green energy supply chain manufacturer. The refund shall be subject to the procedures of
§ 67-1-1802; provided, however, that, notwithstanding any procedure of
§ 67-1-1802 to the contrary, a claim for refund must be filed with the
commissioner within three (3) years from December 31 of the year in which
the credit provided by this subdivision (m)(3) was incurred. To the extent any
amount allowed as a credit under this subdivision (m)(3) is not applied to the
taxpayer’s liability and is not received by the taxpayer as a refund, the credit
may be carried forward in perpetuity until it is claimed as a refund or
utilized as a credit by the certified green energy supply chain manufacturer
pursuant to this subdivision (m)(3). Except for the purpose of receiving a
refund or otherwise utilizing credits that have been carried forward, the
credit provided for in this subdivision (m)(3) shall cease to be effective on
January 1, 2029, and no new credit shall be allowed for tax years ending on
or after January 1, 2029.

(4) A certified green energy supply chain manufacturer and any campus
affiliates shall be allowed a carbon charge credit against the sum total of the
taxes imposed by the Franchise Tax Law compiled in this part and the
Excise Tax Law compiled in part 20 of this chapter, equal to any carbon
charges incurred by or imposed directly on the certified green energy supply
chain manufacturer, campus affiliate or imposed on the Tennessee Valley
authority or other applicable energy provider and billed to the certified green
energy supply chain manufacturer or campus affiliate during the applicable
tax year. The Tennessee Valley authority, or the applicable energy provider,
shall supply such information as deemed necessary by the commissioner of
revenue to verify the amount of the carbon charge credit. Consistent with
subdivision (m)(2), to the extent any amount allowed as a carbon charge
credit under this subdivision (m)(4) exceeds the combined tax imposed by
this part and by part 20 of this chapter after the application of all other
available credits, the amount of the excess shall be considered an overpay-
ment and shall be refunded to the taxpayer. The refund shall be subject to
the procedures of § 67-1-1802; provided, however, that, notwithstanding any
procedure of § 67-1-1802 to the contrary, a claim for refund must be filed
with the commissioner within three (3) years from December 31 of the year
in which the credit provided by this subdivision (m)(4) was incurred.

(5) The investment period for making the required capital investment
may be extended by the commissioner of economic and community develop-
ment for a reasonable period, not to exceed two (2) years, for good cause
shown. For purposes of this subdivision (m)(5), “good cause” means a
determination by the commissioner of economic and community develop-
ment that the capital investment is a result of the credit provided in this
subsection (m).

(6) This subsection (m) shall expire on July 1, 2015; provided, that any
taxpayer that has filed a business plan with the department prior to July 1,
2015, shall continue to be eligible for the credit.

(n) [Expired July 1, 2015; see (n)(2)]

(1) There shall be allowed a credit against a key tenant’s franchise and
excise tax liability equal to any qualified medical trade center relocation
expenses incurred by the key tenant; provided, however, that such credit
shall not exceed an amount equal to ten dollars ($10.00) for each square foot
of space within the facility that is leased and occupied by the key tenant. To
the extent that any amount allowed as a credit under this subsection (n), for
any tax year, exceeds the combined franchise and excise tax after the
application of all available credits, the amount of such excess shall be considered an overpayment and shall be refunded to the key tenant. The refund shall be subject to the procedures of § 67-1-1802; provided, however, notwithstanding any procedure of § 67-1-1802 to the contrary, that a claim for refund shall be filed with the commissioner within three (3) years from December 31 of the year in which the qualified medical trade center relocation expenses were incurred.

(2) This subsection (n) shall expire on July 1, 2015; provided, that any taxpayer that has filed a business plan with the department prior to July 1, 2015, shall continue to be eligible for the credit.

(o) [Expired July 1, 2015; see (o)(6)]

(1) For purposes of this subsection (o), “qualified advertising expenses” means advertising expenses that are incurred for the purpose of co-promoting a qualified medical trade center and the State of Tennessee or the City of Nashville; provided, however, that the expenses shall not qualify under this subdivision (o)(1) unless both the commissioner of revenue and the commissioner of economic and community development determine, in their sole discretion, that the advertising and the allowance of the credit are in the best interests of this state. For purposes of this subdivision (o)(1), “best interests of the state” means a determination by the commissioner of revenue and the commissioner of economic and community development that the advertising is a result of the credit provided in this subsection (o).

(2) A credit in an amount equal to fifteen percent (15%) of any qualified advertising expenses shall be allowed against the combined franchise and excise tax liability of any taxpayer that incurs and pays such qualified expenses.

(3) In order for a taxpayer to become entitled to a credit under this subsection (o), the taxpayer shall submit documentation verifying that the qualified advertising expenses have been incurred and paid.

(4) The commissioner shall review the documentation and notify the taxpayer of the approved credit.

(5) Once the taxpayer has been notified of the approved credit, the taxpayer may submit a claim for the credit. To the extent that any amount allowed as a credit under this subsection (o), for any tax year, exceeds the combined franchise and excise tax after the application of all available credits, the amount of such excess shall be considered an overpayment and shall be refunded to the taxpayer. The refund shall be subject to the procedures of § 67-1-1802; provided, however, notwithstanding any procedure of § 67-1-1802 to the contrary, that a claim for refund shall be filed with the commissioner within three (3) years from December 31 of the year in which the qualified advertising expenses were incurred.

(6) This subsection (o) shall expire on July 1, 2015; provided, that any taxpayer that has filed a business plan with the department prior to July 1, 2015, shall continue to be eligible for the credit.

(p) [Expired July 1, 2015; see (p)(2)]

(1) The commissioner of revenue, the commissioner of economic and community development, and the commissioner of finance and administration are authorized, with the approval of the comptroller of the treasury, to jointly establish a program pursuant to which buildings, facilities, or other infrastructure may be developed utilizing a state funding mechanism and pursuant to which the value of tax credits that have been earned by the
taxpayer but remain unutilized may be applied, in lieu of payments, toward
the purchase or lease of such property pursuant to a contractual agreement
between the taxpayer and the program. Such tax credits may include those
to which the taxpayer is entitled under this section or under any other
provision of this part, part 20 of this chapter, or chapter 6 of this title.

(2) This subsection (p) shall expire on July 1, 2015; provided, that any
taxpayer that has filed a business plan with the department prior to July 1,
2015, shall continue to be eligible for the credit.

(q)(1) As used in this subsection (q):

(A) “Business plan” means a job creation plan submitted by a qualified
business to the commissioner;

(B) “Community resurgence job tax credit” means the credit provided to
a qualified business located in a high-poverty area as provided in this
subsection (q);

(C) “Full-time job” means a permanent employment position providing
employment for at least twelve (12) consecutive months, to a person for at
least thirty-seven and one-half (37.5) hours per week;

(D) “High-poverty area” means a census tract with a poverty level, all
population, in excess of thirty percent (30%), according to the American
community survey three-year estimates in 2013, and determined decen-
nially thereafter, as compiled by the department of economic and commu-
nity development in consultation with the office of local government,
comptroller of the treasury;

(E) “Qualified business” means a new or existing business located in a
high-poverty area according to the most recent decennial determination at
the time a business plan is filed with the commissioner; and

(F) “Qualifying job” means:

(i) A full-time job with wages equal to, or greater than, the state’s
average occupational wage, as defined in § 67-4-2004, for the month of
January of the year during which the job was created;

(ii) The job is newly created in this state and, for at least ninety (90)
days prior to being filled by the taxpayer, did not exist in this state as a
job of the taxpayer or of another business entity; and

(iii) The job is created within a three-year period from the effective
date of the business plan.

(2) In addition to any other credits allowed in this section, there shall be
allowed to any qualified business a community resurgence job tax credit
equal to two thousand five hundred dollars ($2,500) for each qualifying job
created.

(3) The qualified business shall file a business plan with the commissioner
in order to qualify for the credit provided by this subsection (q). The business
plan shall be filed in a manner prescribed by the commissioner and shall
describe the type of business, the number of jobs to be created, the expected
dates the jobs will be filled, and the effective date of the plan.

(4) In order to qualify for the credit, the qualified business shall create at
least ten (10) qualifying jobs. The credit provided in subdivision (q)(2) shall
first apply in the tax year in which the qualified business first satisfies
the job creation requirements and in subsequent tax years in which further net
increases occur above the level of employment established when the credit
was last taken.

(5) The credit shall apply against the franchise tax imposed by this part
and the excise tax imposed by the Excise Tax Law of 1999, compiled in part
20 of this chapter; provided, however, that the credit, together with any carry-forward thereof, taken on any franchise and excise tax return shall not exceed fifty percent (50%) of the combined franchise and excise tax liability shown on the return before any credit is taken. Any unused credit may be carried forward in any tax period until the credit is taken; provided, however, that the credit may not be carried forward for more than fifteen (15) years.

(6) The commissioner has the authority to conduct audits or require the filing of additional information necessary to substantiate or adjust the amount of credit allowed by this subsection (q), and to determine that the taxpayer has complied with all statutory requirements so as to be entitled to the community resurgence job tax credit. If it is determined that the taxpayer failed to comply, the taxpayer shall be subject to an assessment equal to the amount of any credit taken under this subsection (q) for which the taxpayer failed to qualify, plus interest.

(7) The aggregate amount of the credits allowed to all taxpayers under this subsection (q) shall not exceed twelve million five hundred thousand dollars ($12,500,000) in any one (1) tax year.

(r)(1) The commissioner shall, no later than January 1, 2018, and by January 1 of each subsequent year, report to the members of the finance, ways and means committees of the house of representatives and the senate with respect to the tax credits claimed under this section and § 67-4-2009 for tax periods ending during the previous fiscal year.

(2) The report shall contain the following information:
   (A) The number of taxpayers claiming the credit;
   (B) The total amount of credit claimed;
   (C) The number of jobs created during the fiscal year as reported by the taxpayer, if the credit is awarded based on jobs created;
   (D) The total amount of credit carried forward from a prior tax year; and
   (E) The nature of business of the taxpayers claiming the credit, if the nature of the business is available.

(3) Nothing in this subsection (r) authorizes the disclosure of returns, tax information, or tax administration information, as such terms are defined in § 67-1-1701.

67-4-2301. Short title. [Effective on July 1, 2021.]

This part shall be known and may be cited as the “Special User Privilege Tax Law.”

67-4-2302. User privilege tax generally. [Effective on July 1, 2021.]

(a) There is levied on the purchase, use, importation for use, or consumption of the goods and services named in this part, at the rates specified by this part, a user privilege tax to be paid by the purchaser, user, or consumer.

(b) The commissioner of revenue shall administer and enforce the assessment and collection of the taxes levied by this part. All persons subject to the tax levied by this part are required to register with the department of revenue.

(c) The exemptions provided for in §§ 67-6-308, 67-6-322, 67-6-325, 67-6-326, 67-6-328, 67-6-329, 67-6-331, 67-6-340 and 67-6-384 are applicable to the tax levied under this part.
(d)(1)(A) The taxes levied under this part shall be due and payable monthly, on the first day of each month, and for the purposes of ascertaining the amount of tax payable under this part, it shall be the duty of all dealers on or before the twentieth day of each month to transmit to the commissioner returns showing the purchase price arising from the purchase, use, importation for use, or consumption of the goods and services taxed pursuant to this part during the preceding calendar month.

(B) At the time of transmitting the return required by this subsection (d) to the commissioner, the dealer shall remit to the commissioner with the return the amount of tax due, and failure to so remit the tax shall cause the tax to become delinquent.

(2)(A) The commissioner is authorized to prescribe all rules and regulations necessary for the administration of this part, and for the collection of the taxes imposed by this part.

(B) Rules and regulations not inconsistent with this part when promulgated by the commissioner, and approved by the attorney general and reporter, shall have the force and effect of law.

(3)(A) When any person fails to file any form, statement, report or return required to be filed with the commissioner, after being given written notice of the failure to file, the commissioner is authorized to determine the tax liability of the person from whatever source of information may be available to the commissioner or the commissioner’s delegates.

(B) An assessment made by the commissioner pursuant to this authority shall be binding as if made upon the sworn statement, report or return of the person liable for the payment of the tax; and any person against whom the assessment is lawfully made shall thereafter be estopped to dispute the accuracy of the assessment, except upon filing a true and accurate return, together with supporting evidence that the commissioner may require, indicating precisely the amount of the alleged inaccuracy.

(4)(A) It is the duty of every person required to pay a tax under this part to keep and preserve records showing the gross amount of special user privilege tax owed to the state, and the amount of the person’s purchases, uses, importations for use, or consumption taxable under this part, and other books of account that may be necessary to determine the amount of tax, and all those books and records shall be open to inspection at all reasonable hours to the commissioner or any person duly authorized by the commissioner.

(B) All the books and records shall be maintained by the taxpayer for a period of three (3) years from December 31 of the year in which the taxpayer is responsible for paying the tax on the transaction or transactions represented by the record.

(e) Any tax levied by this part is a transactional tax in lieu of the sales or use tax and shall be considered a sales or use tax for purposes of reciprocity and giving credit for sales or use tax paid.

67-4-2303. Tax on water and energy fuels — Exemptions. [Effective on July 1, 2021.]

(a) There is levied a tax of one and one half percent (1.5%) on the purchase price of water, and a tax of one and one half percent (1.5%) on the purchase price of gas, electricity, fuel oil, coal, and other energy fuel, sold to or used by
manufacturers.

(b) For the purpose of this section, “manufacturer” means one whose principal business is fabricating or processing tangible personal property for resale.

(c) Water, gas, electricity, fuel oil, coal, and other energy fuel sold to or used by manufacturers shall be exempt from the tax levied by this section whenever it may be established to the satisfaction of the commissioner, by separate metering or otherwise, that the substance is exclusively used directly in the manufacturing process, coming into direct contact with the article being fabricated or processed by the manufacturer, and being expended in the course of the contact. Whenever the commissioner determines that the use of the substance by a manufacturer meets such test, the commissioner shall issue a certificate evidencing the entitlement of the manufacturer to the exemption. The certificate may be revoked by the commissioner at any time upon a finding that the conditions precedent to the exemption no longer exist. The commissioner’s action as to the granting or revoking of a certificate shall be reviewable solely by a petition for common law certiorari addressed to the chancery court of Davidson County.

(d) Any water or energy fuel used by a manufacturer in fabricating or processing tangible personal property for resale shall be exempt from the tax imposed by this section when the water or energy fuel is produced or extracted directly by the manufacturer from facilities owned by the manufacturer or in the public domain.

(e) Notwithstanding the requirement of direct contact, there shall be exempt entirely from the tax imposed by this section electricity used to generate radiant heat for production of heat-treated glass when sold to or used by manufacturers; provided, however, that the manufacturer has applied for and received a certificate of exemption as required by this section.

(f)(1) The tax levied by this section shall also apply to the use of such substances by a person engaged at a location in packaging automotive aftermarket products manufactured at other locations by the same person or by a corporation affiliated with the manufacturing corporation such that:

(A) Either corporation directly owns or controls one hundred percent (100%) of the capital stock of the other corporation; or

(B) One hundred percent (100%) of the capital stock of both corporations is directly owned or controlled by a common parent.

(2) “Packaging”, as used in subdivision (f)(1), refers only to the fabrication or installation, or both, of that packaging that will accompany the automotive aftermarket product when sold at retail. The tax shall apply only to such substances used in the packaging process, if the use is established to the satisfaction of the commissioner by separate metering or otherwise.

(g) Notwithstanding the requirement of direct contact, natural gas used to generate heat for the production of primary aluminum and aluminum can sheet products when sold to or used by manufacturers shall be exempt from the tax imposed by this section; provided, however, that the manufacturer applies for and receives a certificate of exemption as required by this section.

(h) There is also levied a tax of one and one half percent (1.5%) on the purchase price of electricity sold to or used by a qualified data center as defined in § 67-6-102.

(i)(1) The tax collected on the use of water shall be distributed as follows:

(A) Sixty-seven percent (67%) shall be deposited in the state general fund; and
(B) The remaining thirty-three percent (33%) shall be distributed to incorporated municipalities in the proportion that the population of each bears to the aggregate population of the state and to counties in the proportion that the population of unincorporated areas of the county bears to the aggregate population of the state, according to the most recent federal census or other census authorized by law.

(2) The tax collected on the use of gas, electricity, fuel oil, coal, and other energy fuel shall be deposited in the state general fund.

67-4-2304. Tax on energy purchased from an energy resource recovery facility. [Effective on July 1, 2021.]

(a) There is levied a tax of seven percent (7%) on the purchase price of energy in the form of steam or chilled water purchased from an energy resource recovery facility operated in a county with a metropolitan form of government.

(b) The tax collected pursuant to this section shall be deposited in the state general fund.

67-4-2305. Tax on tangible personal property sold to common carriers for use outside the state. [Effective on July 1, 2021.]

(a) There is levied a tax at the rate of five and one quarter percent (5.25%) on the purchase price of tangible personal property, excluding items listed in §§ 67-4-2307, 67-4-2701, 67-6-302, 67-6-313(i), 67-6-321, and 67-6-331, sold and delivered to common carriers in this state for use outside this state.

(b) The tax collected under this section shall be distributed as follows:

(1) Seventy-one and forty-three hundredths percent (71.43%) shall be deposited in the state general fund; and

(2) The remaining twenty-eight and fifty-seven hundredths percent (28.57%) shall be distributed to incorporated municipalities in the proportion that the population of each bears to the aggregate population of the state, according to the most recent federal census or other census authorized by law.

(c) This section does not apply to sales of food and food ingredients, candy, dietary supplements, alcoholic beverages, tobacco and fuel.

67-4-2306. Exemption for articles of tangible personal property imported for export or produced for export. [Effective on July 1, 2021.]

It is not the intention of this part to levy a tax upon articles of tangible personal property imported into this state for export, or produced or manufactured in this state for export. If the sale of tangible personal property imported into this state is sourced to this state, this exemption shall apply; provided, that the purchaser’s use of the tangible personal property imported into this state is limited to storage, inspection, or repackaging for shipment of the property for export outside this state.

67-4-2307. Exemption for certain property and services. [Effective on July 1, 2021.]

(a) The taxes imposed by this part shall not apply to any property or services:

(1) Upon which the sales or use tax imposed by chapter 6 of this title has
been paid;

(2) Upon which a sales or use tax was previously legally imposed and collected by another state, at a rate equal to or greater than the rate of tax provided for in this part; or

(3) Upon which another state has previously legally imposed and collected a tax substantially similar to the tax imposed by this part, at a rate equal to or greater than the rate of tax provided for in this part.

(b) If the taxes described in subsection (a) are at a rate lesser than the rate imposed by this part, the tax imposed by this part shall be at the difference between the rate of tax imposed by this part and the rate of the tax described in subsection (a).

(c) Notwithstanding subsections (a) and (b), the tax levied by this part shall apply without reduction for any sales or use tax, or tax substantially similar to the tax levied by this part, that is paid to another state on the same transaction, if that state does not have the first right to tax or has no statutory provisions to reduce its sales or use tax, or tax substantially similar to the tax levied by this part, by any payment of the tax levied by this part. Each taxpayer seeking a reduction of the tax levied by this part due to payment of a sales or use tax or tax substantially similar to the tax levied by this part to another state on the same transaction shall furnish evidence to the satisfaction of the commissioner that the tax statutes of the other state would allow a reduction of its sales or use taxes or tax substantially similar to the tax levied by this part in like factual situations.

(d) The taxpayer shall bear the burden of maintaining documentary proof that the taxes described in subsection (a) have been paid.

67-4-2401. Tax on video programming service. [Effective on July 1, 2021.]

(a) There is levied a privilege tax of nine percent (9%) of the gross charge for providing video programming services as defined in § 67-6-102, when the services are delivered to the subscriber at a location in this state.

(b) The tax shall not apply to the first fifteen dollars ($15.00) of the gross charges for the video programming services.

(c) The tax collected under this section shall be distributed as follows:

1. Eighty-two percent (82%) shall be deposited to the state general fund; and

2. The remaining eighteen percent (18%) shall be distributed to incorporated municipalities in the proportion that the population of each bears to the aggregate population of the state and to counties in the proportion the population of unincorporated areas of the county bears to the aggregate population of the state, according to the most recent federal census and other census authorized by law.

67-4-2402. Tax on satellite television service. [Effective on July 1, 2021.]

(a) There is levied a privilege tax of eight and one-quarter percent (8.25%) of the gross charge for services provided by a direct-to-home satellite service provider, when the services are delivered to the subscriber at a location in this state.

(b) The tax collected under this section shall be deposited to the state general fund.
67-4-2403. Collection of tax — Notice to customers. [Effective on July 1, 2021.]

(a) The taxes levied in this part shall be collected from the dealer as defined in § 67-6-102 and paid at the time and in the manner provided in this part. The tax imposed by this chapter shall be collected by the dealer from the consumer insofar as it can be done.

(b) The providers shall indicate in some definite manner whether their customers are paying this privilege tax. This indication must be stated on the ticket, invoice, or other record given to the customer.

67-4-2404. When taxes due and payable. [Effective on July 1, 2021.]

(a) The taxes levied under this part shall be due and payable monthly, on the first day of each month, and for the purposes of ascertaining the amount of tax payable under this chapter, it shall be the duty of all dealers on or before the twentieth day of each month to transmit to the commissioner returns showing the gross charges arising from the sale of services taxable under this chapter during the preceding calendar month.

(b) At the time of transmitting the return required under this part to the commissioner, the dealer shall remit to the commissioner with the return the amount of tax due, and failure to so remit the tax shall cause the tax to become delinquent.

67-4-2405. Administration and enforcement. [Effective on July 1, 2021.]

(a) The commissioner of revenue shall administer and enforce the assessment and collection of the taxes levied by this part.

(b)(1) The commissioner is authorized to prescribe all rules and regulations necessary for the administration of this part, and for the collection of the taxes imposed by this part.

(2) Rules and regulations not inconsistent with this part, when promulgated by the commissioner, and approved by the attorney general and reporter, shall have the force and effect of law.

(c) The commissioner is empowered to examine the books and records of any person subject to this part.

67-4-2406. Failure to file — Assessment. [Effective on July 1, 2021.]

(a) When any person fails to file any form, statement, report or return required to be filed with the commissioner, after being given written notice of the failure to file, the commissioner is authorized to determine the tax liability of the person from whatever source of information may be available to the commissioner or the commissioner’s delegates.

(b) An assessment made by the commissioner pursuant to this authority shall be binding as if made upon the sworn statement, report or return of the person liable for the payment of the tax. Any person against whom the assessment is lawfully made shall thereafter be estopped to dispute the accuracy of the assessment, except upon filing a true and accurate return, together with supporting evidence that the commissioner may require, indicating precisely the amount of the alleged inaccuracy.
67-4-2407. Maintenance of records. [Effective on July 1, 2021.]

(a) It is the duty of every person required to pay a tax under this part to keep and preserve records showing the gross amount of tax levied by this part owed to the state, and the amount of the person’s gross receipts taxable under this part, and other books of account that may be necessary to determine the amount of tax under this part, and the books and records shall be open to inspection at all reasonable hours to the commissioner or any person duly authorized by the commissioner.

(b) The books and records shall be maintained by the taxpayer for a period of three (3) years from December 31 of the year in which the taxpayer is responsible for paying the tax on the transaction or transactions represented by the record.

67-4-2408. Exemptions. [Effective on July 1, 2021.]

The exemptions provided for in §§ 67-6-308, 67-6-322, 67-6-325, 67-6-328, and 67-6-384 are applicable to the tax levied under this part. In addition, all sales made to the state or any county or municipality within the state shall be exempt from the tax levied under this part.

67-4-2409. Exemption for video programming services or direct-to-home satellite services sold for resale — “For resale” defined. [Effective on July 1, 2021.]

The tax imposed by this part shall not apply when the video programming services or direct-to-home satellite services are sold for resale. “For resale” means that the customer of the video programming service or direct-to-home satellite service provider purchases the services, sells those services to others, and is liable for the tax imposed by this part, or for the sales tax imposed by chapter 6 of this title, on its sales of those specific services. The commissioner is authorized and empowered to require the use of certificates of resale, or other satisfactory proof, as proof that any sale claimed to be a sale for resale is in fact a sale for resale. In cases where a customer purchases some services for resale and others for the customer’s use and consumption, the seller shall separate the taxable and resale amounts on the bill, invoice, or statement provided to its customer.

67-4-2410. Credit for bad debts arising from sale. [Effective on July 1, 2021.]

A person who has paid the tax imposed by this part on any sale taxable under this part may take credit for any bad debts arising from the sale, in any return filed under this part. Sections 67-6-507(e) and 67-1-1802(d) shall apply to the credit.

67-4-2501. Tax on dyed diesel fuel. [Effective on July 1, 2021.]

(a) There is levied a privilege tax of seven percent (7%) of gross charges on the retail sale of dyed diesel fuel, as “dyed diesel fuel” is defined in § 67-3-103. For purposes of this part, retail sale shall mean the same as defined in § 67-6-102.

(b) The commissioner is authorized and empowered to require the use of certificates of resale, or other satisfactory proof, as proof that any sale claimed
to be other than a “retail sale” is in fact not a retail sale.

(c) The tax collected under this section shall be deposited to the state general fund.

67-4-2502. Collection of tax — Notice to customers. [Effective on July 1, 2021.]

(a) The tax shall be collected from the dealer as defined in § 67-6-102 and paid at the time and in the manner provided in this part. The tax imposed by this part shall be collected by the dealer from the consumer insofar as it can be done.

(b) The dealer shall indicate in some definite manner whether its customers are paying this privilege tax. This indication shall be stated on the ticket, invoice, or other record given to the customer.

67-4-2503. Exemptions. [Effective on July 1, 2021.]

Sales to governmental entities that are exempt from the sales tax imposed by chapter 6 of this title, and sales of fuel to a qualified farmer or nurseryman, as defined in § 67-6-207 for agricultural purposes, as defined in § 67-3-103, shall be exempt from the tax imposed by this part. Sales of dyed diesel fuel taxed per gallon by § 67-3-202 are exempt from the tax imposed by this part.

67-4-2504. When taxes due and payable. [Effective on July 1, 2021.]

(a) The taxes levied under this part shall be due and payable monthly, on the first day of each month, and for the purposes of ascertaining the amount of tax payable under this part, it shall be the duty of all dealers on or before the twentieth day of each month to transmit to the commissioner returns showing the gross charges of fuel taxable under this part during the preceding calendar month.

(b) At the time of transmitting the return required under this section to the commissioner, the dealer shall remit to the commissioner with the return the amount of tax due, and failure to so remit the tax shall cause the tax to become delinquent.

67-4-2505. Administration and enforcement. [Effective on July 1, 2021.]

(a) The commissioner of revenue shall administer and enforce the assessment and collection of the taxes levied by this part.

(b)(1) The commissioner is authorized to prescribe all rules and regulations necessary for the administration of this part, and for the collection of the taxes imposed by this part.

(2) Rules and regulations not inconsistent with this part when promulgated by the commissioner, and approved by the attorney general and reporter, shall have the force and effect of law.

(c) The commissioner is empowered to examine the books and records of any person subject to this part.

67-4-2506. Failure to file — Assessments. [Effective on July 1, 2021.]

(a) When any person fails to file any form, statement, report or return required to be filed with the commissioner, after being given written notice of the
failure to file, the commissioner is authorized to determine the tax liability of the person from whatever source of information may be available to the commissioner or the commissioner's delegates.

(b) An assessment made by the commissioner pursuant to this authority shall be binding as if made upon the sworn statement, report or return of the person liable for the payment of the tax; and any person against whom the assessment is lawfully made shall thereafter be estopped to dispute the accuracy of the assessment, except upon filing a true and accurate return, together with supporting evidence that the commissioner may require, indicating precisely the amount of the alleged inaccuracy.

67-4-2507. Maintenance of records. [Effective on July 1, 2021.]

(a) It is the duty of every person required to pay a tax under this part to keep and preserve records showing the gross amount of tax levied by this part owed to the state, and the amount of the person's gross retail sales taxable under this part, and other books of account that may be necessary to determine the amount of tax under this part, and all those books and records shall be open to inspection at all reasonable hours to the commissioner, the commissioner's delegates, or any person duly authorized by either of them.

(b) All the books and records shall be maintained by the taxpayer for a period of three (3) years from December 31 of the year in which the taxpayer is responsible for paying the tax on the transaction or transactions represented by the record.

67-4-2508. Credit for bad debts arising from sale. [Effective on July 1, 2021.]

A person who has paid the tax imposed by this part on any sale taxable under this part may take credit for any bad debts arising from such sale, in any return filed under this part. Sections 67-6-507(e) and 67-1-1802(d) shall apply to the credit.

67-4-2701. Privilege tax on gross charge for aviation fuel — “Gross charge” defined. [Effective on July 1, 2021.]

There is levied a privilege tax of four and one half percent (4.5%) of the gross charge for the sale, use, consumption, distribution and storage of aviation fuel used in the operation of airplane or aircraft motors. For the purpose of this part, “gross charge” shall include the actual price paid for the aviation fuel without any deductions from the actual price paid, except for federal excise tax.

67-4-2702. Collection — Notice to customer regarding payment of tax — Payment by purchaser — Transactional tax. [Effective on July 1, 2021.]

(a) The taxes levied in this part shall be collected from the dealer as defined in § 67-6-102, and paid at the time and in the manner provided in this part. The tax imposed by this chapter shall be collected by the dealer from the consumer insofar as it can be done.

(b) The dealer shall indicate in some definite manner whether the customer is paying this privilege tax. This indication shall be stated on the ticket, invoice, or other record given to the customer.

(c) The tax levied by this section shall be paid by the purchaser in those cases
where the seller of the aviation fuel is not liable to collect the tax.

(d) The tax levied by this part is a transactional tax in lieu of the sales or use tax and shall be considered a sales or use tax for purposes of reciprocity and giving credit for sales or use tax paid.

67-4-2703. Payment of tax. [Effective on July 1, 2021.]

(a) The taxes levied under this part shall be due and payable monthly, on the first day of each month, and for the purposes of ascertaining the amount of tax payable under this part, it shall be the duty of all dealers on or before the twentieth day of each month to transmit to the commissioner returns showing the gross charges arising from the sale of aviation fuel taxable under this part during the preceding calendar month.

(b) Each dealer shall also remit the amount of tax due with each return required in subsection (a). If the taxes due with the return are not remitted to the commissioner before the due date of the return, the return shall be considered delinquent and penalty and interest shall attach to the taxes due as provided by law.

(c) Each dealer of aviation fuel shall include on the return a statement under penalty of perjury, evidencing the total amount in gallons of aviation fuel sold and the dollar amount collected from the sales, and any other information as may be required by the commissioner on forms prescribed by the department.

67-4-2704. Administration and enforcement — Rules and regulations — Examination of books and records. [Effective on July 1, 2021.]

(a) The commissioner of revenue shall administer and enforce the assessment and collection of the taxes levied by this part.

(b)(1) The commissioner is authorized to prescribe all rules and regulations necessary for the administration of this part, and for the collection of the taxes imposed by this part.

(2) Rules and regulations not inconsistent with this part when promulgated by the commissioner, and approved by the attorney general and reporter, shall have the force and effect of law.

(c) The commissioner is empowered to examine the books and records of any person subject to this part.

67-4-2705. Determination of tax liability — Assessments. [Effective on July 1, 2021.]

(a) When any person fails to file any form, statement, report or return required to be filed with the commissioner, after being given written notice of the failure to file, the commissioner is authorized to determine the tax liability of the person from whatever source of information may be available to the commissioner or the commissioner’s delegates.

(b) An assessment made by the commissioner pursuant to this authority shall be binding as if made upon the sworn statement, report or return of the person liable for the payment of the tax; and any person against whom the assessment is lawfully made shall thereafter be estopped to dispute the accuracy thereof, except upon filing a true and accurate return, together with supporting evidence that the commissioner may require, indicating precisely the amount of the alleged inaccuracy.
67-4-2706. Duty to keep and preserve records. [Effective on July 1, 2021.]

(a) It is the duty of every person required to pay a tax under this part to keep and preserve records showing the gross amount of tax owed to the state, and the amount of the person’s gross charges taxable under this part, and other books of account that may be necessary to determine the amount of the tax under this part, and all those books and records shall be open to inspection at all reasonable hours to the commissioner or any person duly authorized by the commissioner.

(b) The books and records shall be maintained by the taxpayer for a period of three (3) years from December 31 of the year in which the taxpayer is responsible for paying the tax on the transaction or transactions represented by the record.

67-4-2707. Deposits to transportation equity fund. [Effective on July 1, 2021.]

The tax collected under this part shall be deposited to the transportation equity fund.

67-4-2708. Exemption for aviation fuel sold for resale — Proof. [Effective on July 1, 2021.]

The tax imposed by this part shall not apply when the aviation fuel is sold for resale. The commissioner is authorized and empowered to require the use of certificates of resale, or other satisfactory proof, as proof that any sale claimed to be a sale for resale is in fact a sale for resale.

67-4-2709. Additional exemptions. [Effective on July 1, 2021.]

The exemptions provided for in §§ 67-6-308, 67-6-322, 67-6-325, 67-6-328, and 67-6-384 are applicable to the tax levied under this part. In addition, all sales made to the state or any county or municipality within the state shall be exempt from the tax levied under this part.

67-4-2710. Exemption for products sold to or used by commercial air carriers for international flights. [Effective on July 1, 2021.]

There is exempt from the tax imposed by this chapter fuel and petroleum products sold to or used by a commercial air carrier, certified by the carrier to be used for consumption, shipment or storage in the conduct of its business as an air common carrier for a flight destined for or continuing from a location outside the United States.

67-4-2711. Liability of commercial air carrier for tax — “Commercial air carrier” defined. [Effective on July 1, 2021.]

(a) A commercial air carrier may purchase aviation fuel without payment of tax to the dealer by presenting the dealer with a certificate issued pursuant to § 67-6-528, in which case the carrier becomes liable for reporting and payment of the privilege tax pursuant to the terms of this section.

(b) For purposes of this section, “commercial air carrier” means an entity authorized and certificated by the United States department of transportation...
or another federal or a foreign authority to engage in the carriage of persons or property by air in interstate or foreign commerce.

67-4-2712. Taxes collected in another state. [Effective on July 1, 2021.]

(a) The tax imposed by this part shall not apply to any aviation fuel:
   (1) Upon which a sales or use tax was previously legally imposed and collected by another state, at a rate equal to or greater than the rate of tax provided for in this part; or
   (2) Upon which another state has previously legally imposed and collected a tax substantially similar to the tax imposed by this part, at a rate equal to or greater than the rate of tax provided for in this part.
(b) If the taxes described in subsection (a) are at a rate less than the rate imposed by this part, the tax imposed by this part shall be at the difference between the rate of tax imposed by this part and the rate of the tax described in subsection (a).
(c) Notwithstanding subsections (a) and (b), the tax levied by this part shall apply without reduction for any sales or use tax or tax substantially similar to the tax levied by this part that is paid to another state on the same transaction, if that state does not have the first right to tax or has no statutory provisions to reduce its sales or use tax, or tax substantially similar to the tax levied by this part, by any payment of the tax levied by this part. Each taxpayer seeking a reduction of the tax levied by this part due to payment of a sales or use tax or tax substantially similar to the tax levied by this part to another state on the same transaction shall furnish evidence to the satisfaction of the commissioner that the tax statutes of the other state would allow a reduction of its sales or use taxes or tax substantially similar to the tax levied by this part in like factual situations.
(d) The taxpayer shall bear the burden of maintaining documentary proof that the taxes described in subsection (a) have been paid.

67-4-2802. Part definitions.

As used in this part, unless the context clearly requires otherwise:
   (1) “Commissioner” means the commissioner of revenue;
   (2) “Controlled substance” means a controlled substance as defined in § 39-17-402, and not included in “low-street-value drugs”;
   (3) “Controlled substance analogue” means a controlled substance analogue as defined in § 39-17-454;
   (4) “Illicit alcoholic beverage” means an alcoholic beverage, as defined in § 57-3-101, not authorized by the Tennessee alcoholic beverage commission. “Illicit alcoholic beverage” includes, but is not limited to, the products known as “bootleg liquor,” “moonshine,” “non-tax-paid liquor,” and “white liquor”;
   (5) “Local law enforcement agency” means a municipal police department, a metropolitan police department, or a sheriff’s office;
   (6) “Low-street-value drug” means any of the following controlled substances:
       (A) An anabolic steroid as defined in § 39-17-410(f);
       (B) A depressant described in § 39-17-412(c);
       (C) A hallucinogenic substance described in § 39-17-406(d);
       (D) A stimulant described in § 39-17-412(f); or
       (E) A controlled substance described in § 39-17-414;
(7) “Marijuana” means all parts of the plant of the genus cannabis, whether growing or not; the seeds of this plant; the resin extracted from any part of this plant; and every compound, salt, derivative, mixture, or preparation of this plant, its seeds, or its resin. “Marijuana” does not include hemp, as defined in § 43-27-101;

(8) “Merchant” means a merchant or peddler within the scope of article II, § 28 of the Constitution of Tennessee and includes any person who is actually engaged in the act of selling, bartering, trading, or distributing to another for consideration any unauthorized substances regardless of the quantity under § 67-4-2803(a), and such person shall be subject to the tax imposed under this part. Any person who actually or constructively possesses, at a particular time, any unauthorized substances in a quantity sufficient to create a principal tax liability of at least ten thousand dollars ($10,000) under § 67-4-2803(a) is presumed to be possessing the unauthorized substances for the purpose of sale, barter, trade, or distribution to another for consideration and is presumed to be a merchant within the meaning of this subdivision (8); such presumption may be rebutted only by clear and convincing evidence that the person did not sell, barter, trade, or distribute for consideration such substances or intend to do so; except, however, that if the person sells, barters, trades, or distributes to another for consideration any unauthorized substances in any quantity under § 67-4-2803(a), the presumption shall not apply and the person shall be considered a merchant and subject to the tax imposed by this part regardless of the quantity involved in the transaction;

(9) “Person” means person as defined in § 39-17-402;

(10) “State law enforcement agency” means any state agency, force, department, or unit responsible for enforcing criminal laws; and

(11) “Unauthorized substance” means a controlled substance, a controlled substance analogue, a low-street-value drug or an illicit alcoholic beverage.

67-5-207. Religious, charitable, scientific, educational institutions.

(a)(1) Property of Tennessee nonprofit corporations that is used for permanent housing of low income persons with disabilities, or low income elderly persons, is exempt in accordance with this section. The property must be financed by a grant under § 211 or § 811 of the National Affordable Housing Act (42 U.S.C. §§ 12741 and 8013, respectively), or the McKinney-Vento Homeless Assistance Act (42 U.S.C. § 11301 et seq.), or be financed or refinanced by a loan made, insured, or guaranteed by a branch, department or agency of the United States government under § 515(b) or § 521 of the Housing Act of 1949 (42 U.S.C. §§ 1485(b) and 1490a, respectively), § 202 of the Housing Act of 1959 (12 U.S.C. § 1701q, § 221, § 223, § 231) or § 236 of the National Housing Act (12 U.S.C. §§ 1715l, 1715n, 1715v and 1715z-1, respectively), or § 8 of the United States Housing Act of 1937, as amended by the Housing and Community Development Act of 1974 (42 U.S.C. § 1437f). For the purposes of this section, a loan is considered to be guaranteed if the federal housing agency has consented to assignment of a housing assistance program contract as security for the loan. In the case of a property financed or refinanced by a loan, eligibility for the exemption under these programs continues so long as there is an unpaid balance on the loan. Following payment of the loan in full, a property shall continue to be
exempt from taxation so long as the project is restricted to use for elderly persons or persons with disabilities as defined in the programs. In the case of a property financed by a grant, eligibility for the exemption under these programs continues so long as the project is restricted to use for elderly persons or persons with disabilities as defined in the programs. The property must be used as below-cost housing for elderly persons or persons with disabilities within the program definitions, who have incomes not in excess of limits established for the enumerated program by the department of housing and urban development (HUD). If a property was approved by HUD for participation in the program without specific low income guidelines, the property may nevertheless qualify for exemption on a pro rata basis, if at least fifty percent (50%) of the low income residents have incomes that would qualify under HUD guidelines for any of the enumerated programs. In such cases the property shall be exempt in the same percentage that low income residents represent of the total occupancy of the property at full capacity, determined as of January 1 each year, on the basis of information supplied to the assessor on or before April 20.

(2) The owners of projects exceeding twelve (12) units shall agree to make payments in lieu of taxes to the tax jurisdictions in which they are located, in an amount negotiated to cover the cost of improvements, facilities or services rendered by the tax jurisdiction, but if no amount is agreed the payments shall be not less than twenty-five percent (25%) of the amount of tax that would be due if the project were not exempt. In no event shall such payments be required of public housing authorities operating under the Housing Authorities Law, compiled in title 13, chapter 20.

(b) To qualify for such exemption, any such not-for-profit corporation must first be exempt from federal income taxation by virtue of qualifying as an exempt charitable organization or as an exempt social welfare organization under the Internal Revenue Code (26 U.S.C.), and any amendments thereto. In addition, the not-for-profit corporation shall have charter provisions providing in substance that:

(1) The directors and officers shall serve without compensation;
(2) The corporation is irrevocably dedicated to and operated exclusively for not-for-profit purposes;
(3) No part of the income or assets of the corporation shall be distributed to nor inure to the benefit of any individual;
(4) In the event of dissolution of the corporation or other liquidation of its assets, the corporation’s property shall not be conveyed to any individual for less than the fair-market value of such property; and
(5) All assets remaining after payment of the corporation’s debts shall be conveyed or distributed only to an organization or organizations created and operated for not-for-profit purposes similar to those of the corporation.

(c) All claims for exemption under this section are subject to § 67-5-212(b).

(d) Subject to the general requirements of this section for exemption of federally assisted housing, there shall also be exempted under this section those properties owned by not-for-profit organizations and funded under the HOME Investment Partnerships Program (42 U.S.C. § 12701 et seq.), or a housing trust fund established in accordance with title 7, chapter 8 or title 13, chapter 23, part 5. To qualify, the property must be used for permanent housing for low income or very low income persons who are elderly or have a disability.

(e) Nothing in this section shall be construed to preclude the application of
§ 67-5-212 to transitional or temporary housing that qualifies as a charitable use of property under that section.


(a)(1) There shall be exempt from property taxation the real and personal property, or any part of the real and personal property, owned by any religious, charitable, scientific, or nonprofit educational institution that is occupied and actually used by the institution or its officers purely and exclusively for carrying out one (1) or more of the exempt purposes for which the institution was created or exists. There shall further be exempt from property taxation the real and personal property, or any part of the real and personal property, owned by an exempt institution, but occupied and actually used by:

(A) Another religious, charitable, scientific, or nonprofit educational institution or its officers purely and exclusively for carrying out one (1) or more of the exempt purposes for which the occupying institution was created or exists;

(B) An exempt institution that originated as part of a single exempt institution and that continues to use the property for the same religious, charitable, scientific, or nonprofit educational purposes, whether by charter, contract, or other agreement or arrangement; or

(C) The United States government, the state of Tennessee, or any agency or political subdivision thereof.

(2) In determining the exemption applicable to a post-secondary educational institution, there shall be a presumption that the entire original campus of an institution chartered before 1930 is an historical and integral entity, and is exempt so long as no particular portion of such campus is used for nonexempt purposes.

(3)(A) The property of such institution shall not be exempt, if:

(i) The owner, or any stockholder, officer, member, or employee of such institution shall receive or may be lawfully entitled to receive any pecuniary profit from the operations of that property in competition with like property owned by others that is not exempt, except reasonable compensation for services in effecting one (1) or more of such purposes, or as proper beneficiaries of its strictly religious, charitable, scientific, or educational purposes; or

(ii) The organization thereof for any such avowed purpose be a guise or pretense for directly or indirectly making any other pecuniary profit for such institution, or for any of its members or employees, or if it be not in good faith organized or conducted exclusively for one (1) or more of these purposes.

(B) The real property of any such institution not so used exclusively for carrying out thereupon one (1) or more of such purposes, but leased or otherwise used for other purposes, whether the income received therefrom be used for one (1) or more of such purposes or not, shall not be exempt; but, if a portion only of any lot or building of any such institution is used purely and exclusively for carrying out thereupon one (1) or more of such purposes of such institution, then such lot or building shall be so exempt only to the extent of the value of the portion so used, and the remaining or
other portion shall be subject to taxation.

(4) No church shall be granted an exemption on more than one (1) parsonage, and an exempt parsonage may not include within the exemption more than three (3) acres.

(5) For property owned by a corporation organized for the exclusive purpose of holding title to property for use by any organization that itself qualifies for exemption under this section, only such property of the corporation, or such parts thereof, as would be entitled to an exemption under this section if owned directly by such organization shall be exempt from property taxation.

(b)(1) Any owner of real or personal property claiming exemption under this section or § 67-5-207, § 67-5-213, § 67-5-219, or as otherwise required by law, shall file an application for the exemption with the state board of equalization on a form prescribed by the board and supply such further information as the board may require to determine whether the property qualifies for exemption. No property that is subject to these application requirements shall be exempted from property taxes unless the application has been approved in writing by the board. An application shall be deemed filed on the date it is received by the board or, if mailed, on the postmark date. The applicant shall provide a copy of the application with any supporting materials to the assessor of property of the county in which the property is located. An application for exemption pursuant to this section or any other section referring to these procedures shall be treated as an appeal for purposes of § 67-5-1512.

(2) The board shall make an initial determination granting or denying exemption through its staff designee, who shall send written notice of the initial determination to the applicant and the assessor of property. Written notice includes notification by electronic means and notice may be preserved in digital or electronic format. Either the assessor of property or the applicant may appeal the initial determination to the board and shall be entitled to a hearing prior to any final determination of exemption. The assessor shall retain copies of any approved exemptions in paper, electronic, or digital format. Upon approval of exemption, it is not necessary that the applicant reapply each year, but the exemption shall not be transferable or assignable and the applicant shall promptly report to the assessor any change in the use or ownership of the property that might affect its exempt status. The board may by rule impose a filing fee for processing applications for exemption. Such filing fee shall not exceed one hundred twenty dollars ($120) and shall be proportionate to the value of the property at issue. For purposes of this section, “filing” means one (1) submission that may include multiple parcels, including real and personal property, with a clear nexus to one (1) exemption determination.

(3)(A) Any institution claiming an exemption under this section that has not previously filed an application for and been granted an exemption for a parcel must file an application for exemption with the state board of equalization by May 20 of the year for which exemption is sought. If the application is approved, the exemption will be effective as of January 1 of the year of application or as of the date the exempt use of such parcel began, whichever is later. If application is made after May 20 of the year for which exemption is sought, but prior to the end of the year, the application may be approved but will be effective for only a portion of the
year determined as follows:

(i) If application is filed within thirty (30) days after the exempt use of the property began, exemption will be effective as of the date the exempt use began; or

(ii) If application is filed more than thirty (30) days after the exempt use began, the exemption will be effective as of the date of application.

(B) If a religious institution acquires property that was duly exempt at the time of transfer from a transferor who had previously been approved for a religious use exemption of the property, or if a religious institution acquires property to replace its own exempt property, then the effective date of exemption shall be three (3) years prior to the date of application, or the date the acquiring institution began to use the property for religious purposes, whichever is later. The purpose of this subdivision (b)(3) is to provide continuity of exempt status for property transferred from one exempt religious institution to another in the specified circumstances. For purposes of this subdivision (b)(3), property transferred by a lender following foreclosure shall be deemed to have been transferred by the foreclosed debtor, whether or not the property was assessed in the name of the lender during the lender’s possession.

(C) In any county having a metropolitan form of government and a population in excess of five hundred thousand (500,000), according to the 2010 federal census or any subsequent federal census, if a nonprofit educational institution which is a medical college acquires one (1) or more parcels of land or portions thereof for the purpose of carrying out one (1) or more of the exempt purposes for which the institution was created or exists, the institution may claim and file an application for exemption under this section or § 67-5-213, and the effective date of such exemption shall be up to three (3) years prior to the date of application, or the date the institution began to use the property for exempt purposes, whichever is later. This subdivision (b)(3)(C) shall apply to properties acquired before May 25, 2017, so that such properties are not subject to taxation under this chapter while owned by the exempt educational institution and used for one (1) or more of the exempt purposes for which the institution was created or exists; provided, however, that nothing in this subdivision (b)(3)(C) requires a county to refund any taxes that were collected prior to May 25, 2017.

(D) In any county with a population of not less than four hundred thirty-two thousand two hundred (432,200) nor more than four-hundred thirty-two thousand three hundred (432,300), according to the 2010 federal census or any subsequent federal census, or within a municipality located within such county, if a nonprofit children’s hospital changes the use of one (1) or more parcels of land or portions thereof for the purpose of carrying out one (1) or more of the exempt purposes for which the institution was created or exists, the institution may claim and file an application for exemption under this section or § 67-5-213, and the effective date of such exemption shall be up to three (3) years prior to the date of application, or the date the institution began to use the property for exempt purposes, whichever is later. In determining the date that a qualifying institution begins using property for an exempt purpose, subsection (g) applies to the full extent of both improvements and underlying real property so that the entire property, to the extent that the
full value of underlying land and any improvements thereon, is considered to be occupied and used by the qualifying institution or its officers purely and exclusively for the institution’s purposes from and after the commencement of construction of improvements. This subdivision (b)(3)(D) applies to properties acquired before May 15, 2018, so that such properties are not subject to taxation under this chapter while owned by the qualifying institution and used for one (1) or more of the exempt purposes for which the institution was created or exists, and any property taxes paid on such property that were collected prior to May 15, 2018, shall be refunded.

(4) All questions of exemption under this section shall be subject to review and final determination by the board; provided, that any determination by the board is subject to judicial review by petition of certiorari to the appropriate chancery court. All other provisions of law notwithstanding, no property shall be entitled to judicial review of its status under this statute, except as provided by the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, and only after the exhaustion of administrative remedies as provided in this section.

(5) The state board of equalization may revoke any exemption approved under this section, either in whole or in part, if it determines that the exemption was approved on the basis of fraud, misrepresentation, or erroneous information, that the current owner of the property does not qualify for exemption, or that the property is not actually being used for an exempt purpose. Property is not actually being used for an exempt purpose if the property is not currently in use, has been abandoned, is not suitable for human habitation, or is being used for a nonexempt purpose. The executive secretary of the board may initiate proceedings for revocation on the executive secretary’s own motion or upon the written complaint of any person upon a determination of probable cause. Revocation shall not be retroactive, unless the order of revocation incorporates a finding of fraud or misrepresentation on the part of the applicant or failure of the applicant to give notice of a change in the use or ownership of the property as required by this section.

(c) As used in this section, “charitable institution” includes any nonprofit organization or association devoting its efforts and property, or any portion thereof, exclusively to the improvement of human rights and/or conditions in the community.

(d)(1) The property, or any part thereof, owned by any religious, charitable, scientific or educational membership nonprofit organization chartered by the United States congress shall not be denied exemption because administrative, social or recreational activities of such organization are conducted thereon, where the activities are:

(A) Agencies for the advancement and enlargement of the purposes for which the organizations exist;

(B) In furtherance of the general purposes of such organization; or

(C) To promote the interest of its membership in such organizations.

(2) When property is owned by corporations organized for the exclusive purpose of holding title to property for use of any organization that itself qualifies for such exemption from taxation under this subsection (d), only such property of the corporation, or such parts thereof, as would be entitled to an exemption under this subsection (d) if owned directly by such
organization shall not be denied exemptions.

(3) The exemption of property or parts thereof under this subsection (d) shall be applicable only to such part of the property on which such organization conducts administrative, social or recreational activities, if it is less than the entire property.

(e)(1) There shall be exempt from property taxation the property of labor organizations exempted from the payment of federal income taxes by the United States Internal Revenue Code (26 U.S.C. § 501(c)(5)), when such property is not used for revenue producing profit, but is used by such organization for charitable or educational meetings; but, if part of the property is used for revenue producing profit, then the part so used shall not be exempt from property taxation; provided, that the real property on which the building is situated shall be exempt from property taxation.

(2) No such organization that discriminates against any person based upon race, sex, religious beliefs or national origin shall be eligible for the property tax exemption authorized by subdivision (e)(1).

(f) [Deleted by 2019 amendment.]

(g) In the case of property that is owned by any religious, charitable, scientific, or educational institution and on which such institution constructs improvements to be occupied and used by such institution or its officers purely and exclusively for carrying out thereupon one (1) or more of the purposes for which the institution was created or exists, the property may be exempt as follows:

   (1) If construction of the improvements is completed within twelve (12) months of its commencement, the property, to the extent of the value of the land and the value of the improvements constructed thereon, shall be considered to be occupied and used by the institution or its officers purely and exclusively for the institution's purposes from and after, but not before, the commencement of construction of the improvements. Land shall be considered occupied and used by the institution to the extent it is reasonably necessary to support structures or site improvements associated with structures;

   (2) If construction of the improvements is completed more than twelve (12) months after commencement, the property, to the extent of the value of the improvements constructed thereon for these purposes, shall be considered to be occupied and used by the institution or its officers purely and exclusively for the institution's purposes from and after, but not before, the commencement of construction of the improvements and to the extent of such value shall be exempt from taxation;

   (3) If the improvements upon completion are not so occupied and used, then no part of the value of the property shall be exempt from taxation during the construction of the improvements;

   (4) If upon completion of the improvements a portion thereof is not so used and occupied, such portion shall not be exempt from taxation during construction of the improvements; and

   (5) If the improvements upon completion are not occupied and used by such institution or its officers for a period of ten (10) years, purely and exclusively for carrying out thereupon one (1) or more of the purposes for which such institution was created or exists, the institution shall be liable for the full amount of property taxes that would otherwise have been due and payable during the period of construction, plus penalties and interest as
provided in this title.

(h) There shall be exempt from property taxation the property or any part thereof of fraternal organizations exempted from the payment of federal income taxes by the United States Internal Revenue Code (26 U.S.C. § 501(c)), to the extent that such property is used not for revenue-producing profit, but directly, physically and exclusively for religious, charitable, scientific and educational activities.

(i) There shall be exempt from property taxation the property, or any part thereof, of nonprofit county fair associations.

(j) There shall be exempt from property taxation the property or any portion thereof containing one (1) residential dwelling located in a community park that is open to entry by the general public, if such dwelling is owned by a nonprofit religious, charitable, educational or scientific organization that does not receive income from the resident thereof, if such resident does not occupy the dwelling in lieu of a salary, and if such resident, by such resident’s presence, would discourage or prohibit damage or destruction by vandalism of the organization’s property.

(k) There shall be exempt from property taxation any property upon which a caretaker’s dwelling is located, if:

(1) The dwelling is located upon land owned by a nonprofit member organization chartered by the United States congress;

(2) The land immediately surrounding the dwelling is used by such organization for nonprofit religious, charitable, educational or scientific purposes; and

(3) The caretaker’s presence is required for the physical security of the users of the property as well as to discourage or prohibit damage or destruction of the organization’s property by vandalism.

(l) The general assembly finds that public radio broadcasting serves a valid educational purpose so long as the broadcaster holds an educational broadcast license issued by the federal communications commission; and, therefore, that property, or any part thereof, owned by a public radio station that is an affiliate member of the public broadcasting network, and that is organized as a nonprofit charitable or educational institution, shall be exempt from property taxation to the extent the property is used in a manner consistent with the license.

(m) The general assembly finds that public television broadcasting serves a valid educational purpose so long as the broadcaster holds a noncommercial educational broadcast license issued by the federal communications commission. Therefore, that property, or any part thereof, owned by a public television station that is an affiliate member of the public broadcasting network, and that is organized as a nonprofit charitable or educational institution, shall be exempt from property taxation to the extent the property is used in a manner consistent with the license.

(n) There shall be exempt from property taxation the real and personal property, or any part thereof, that is owned by a religious or charitable institution and that is occupied and used by such institution for a thrift shop; provided, that:

(1) The institution is exempt from payment of federal income taxes under Section 501(c)(3) of the Internal Revenue Code (26 U.S.C. § 501(c)(3));

(2)(A) The thrift shop is operated as a training venue for persons in need of occupational rehabilitation; or
(B) The thrift shop is operated primarily by volunteers;
(3) The inventory of the thrift shop is obtained by donation to the
institutions that owns and operates the shop;
(4) Goods are priced at levels generally ascribed to used property;
(5) Goods are given to persons whose financial situations preclude pay-
ment; and
(6) The net proceeds of the thrift shop are used solely for the charitable
purposes of the institution that owns and operates the shop.
(o) Land not necessary to support exempt structures or site improvements
associated with exempt structures, including land used for recreation, retreats
or sanctuaries, shall not be eligible for exemption beyond a maximum of one
hundred (100) acres per county for each religious, charitable, scientific or
nonprofit educational institution qualified for exemption pursuant to this
section. For purposes of applying this limit, land owned by an exempt
institutions shall be aggregated with land owned by related exempt institutions
having common ownership or control. Qualifying land in excess of the limit
shall be classified as forest land upon application submitted pursuant to
§ 67-5-1006, or as open space land upon application submitted pursuant to
§ 67-5-1007, and the effective date of the classification shall be the date the
property might otherwise have qualified for exemption.

67-5-302. Filing and preservation of oaths.

The clerk of each county shall keep and preserve the oaths prescribed for
assessors and deputies in paper, electronic, or digital format.

67-5-304. Reports to local and state boards of equalization.

(a) The assessor shall make a report of the assessor’s assessments and shall
make available to the local board of equalization all of the assessor’s records
pertaining to the area involved on or before the first day the board shall meet.
(b) Each assessor, when making the report of assessments to the local board
of equalization as provided in subsection (a), shall accompany the report with
the following oath, which shall be taken and subscribed to before the county
mayor, or in the county mayor’s absence, before a notary public, viz:

I, ________, assessor of the county (city) of ________, state of Tennessee, do
solemnly swear (or affirm) that I have assessed all taxable property, in the
county (city) of ________, as far as ascertainable, to the true owners thereof,
and that I have determined the classification and assessed valuation of all
taxable property as prescribed by law; and that I have faithfully discharged
all my duties without fear, favor, or affection to the best of my knowledge and
ability, so help me God.
(c)(1) It is the duty of each assessor to compile a report listing the total of all
assessments prepared by the assessor’s office in such manner and on such
forms as may be required by the state board of equalization.
(2) [Deleted by 2019 amendment.]


Assessors may provide taxpayers with an informal review of assessments
made pursuant to § 67-5-504 or made during a county reappraisal pursuant to
§ 67-5-1601 if the following requirements are met:
(1) The informal review concludes at least ten (10) days prior to county board of equalization adjournment; and

(2) The assessor informs the taxpayer in writing of the taxpayer’s right to appeal to the county board of equalization if dissatisfied with the outcome of the informal review.

67-5-502. Place and function of assessment.

(a) The function of assessment shall be to assess:

(1) All property, except such property as shall be assessed by the comptroller of the treasury, to the person or persons owning or claiming to own the same on January 1 for the year for which the assessment is made, if known and, if not, to unknown owners; provided, that any temporary improvement, or movable structures that are assessable under § 67-5-802, regardless of ownership, shall be assessed as real property as an improvement to the land where located;

(2) The property held by executors and administrators in the county, district or ward in which the decedent resided at the time of the death until such have been distributed; but, if the deceased lived in another state, then the property shall be assessed where the personal representative resides; and

(3) Personal property held by trustees and guardians of minors and severely and persistently mentally ill persons to each guardian or trustee in the county, ward or district where such minor, or severely and persistently mentally ill person resides, if a resident of the state; and, if a nonresident, then in the county, ward or civil district in which the guardian or trustee resides; provided, that guardian held property shall be assessed in the county where the guardian having control thereof renders such guardian’s annual settlement.

(b) The property of all street railroad, gas, electric light companies, modern market telecommunications providers, and all public utility companies, including their franchises, used within any town, city, or taxing district where the office of the company is located outside of such incorporated city or town or taxing district, but with the main property within the city, shall be taxed in the city, town, or taxing district as if the office was situated within the city limits, and the property, including franchises of the corporations and joint stock companies that lie wholly or mainly within any incorporated city, taxing district, or town, or whose chief business is within any incorporated city, taxing district, or town, shall be assessed for taxation in such city, taxing district, or town; provided, that all real property and tangible personal property shall be taxed in the district where situated; and provided further, that public utility property of every kind, whether real property, tangible personal property, or intangible personal property, shall all be assessed for taxes at fifty-five percent (55%) of its value and that all property of modern market telecommunications providers shall be assessed at the rate applicable to commercial and industrial property of the same type.

(c) Leased personal property used by a public utility company or modern market telecommunications provider shall be assessed to such company or provider, unless such property is the subject of a lawful agreement between the lessee and a local government for payments in lieu of taxes. Other leased personal property shall be classified according to the lessee’s use and assessed
to the lessee, unless such property is the subject of a lawful agreement between the lessee and a local government, or instrumentality thereof, for payments in lieu of taxes. Personal property that is leased to and used by any religious, charitable, scientific, or nonprofit educational institution purely and exclusively for one (1) or more of the purposes for which the institution was previously determined to be exempt under § 67-5-212 shall not be deemed to be used in a business or profession, and shall not be classified as industrial or commercial property for property tax purposes.

(d) All mineral interests and all other interests of whatever character, not defined as products of the soil, in real property, including the interest that the lessee may have in and to the improvements erected upon land where the fee, reversion, or remainder therein is exempt to the owner, and which interest or interests is or are owned separately from the general freehold, shall be assessed to the owner thereof, separately from the other interests in such real estate, which other interests shall be assessed to the owner thereof, all of which shall be assessed as real property, unless the lessee’s or a sublessee’s interest in any such real property, including any improvements erected upon the land, is the subject of a lawful agreement between a lessee and a local government, or instrumentality thereof, for payments in lieu of taxes, entered into or amended on or after April 30, 2019, in which case such property shall be assessed solely to such governmental entity and shall be subject to all applicable exemptions.

(e) Notwithstanding contrary provisions of law, the comptroller of the treasury may establish a pilot program for assessing leased tangible personal property to the owner/lessor rather than the lessee. Participation in the program shall be voluntary, at the election of owner/lessors who are selected by the comptroller of the treasury to participate based on criteria that optimize savings in the cost of assessment compliance and administration. The comptroller of the treasury may impose a fee to defray the cost of administration. Participants shall be permitted to report leased property centrally in lieu of the schedules otherwise required under § 67-5-903 or § 67-5-904, and the comptroller of the treasury shall be responsible for distributing centrally reported assessments based on situs. Participants may be permitted to claim the business tax credit provided in § 67-4-713 for property taxes paid pursuant to a central assessment, and the credit may be taken at the participant’s option either on the return due in the jurisdiction of situs or the jurisdiction from which the lease originated.

67-5-514. Telecommunications tower properties.

If owned by a public utility company, telecommunications tower properties used in whole or in part for telecommunications shall be assessable by the comptroller of the treasury. As used in this section, telecommunications tower properties includes the tower, site improvements, land and structures supporting it.

67-5-806. Use of property maps — Revision of property maps. [Effective until January 1, 2020. See the version effective on January 1, 2020.]

(a) Where any county or municipality other than metropolitan governments has prepared or has had prepared property maps, that identify parcels of land
within the area of that local government, that assign a number or other identifying symbol to such parcels and that show names of streets and public ways, and where such maps have been made a matter of public record and have been filed in the office of the county registrar, the parcel number or other identifying symbol that a specific parcel has been assigned on the official property identification map or maps shall be a sufficient description and identification of such property for purposes of assessment. Property maps prepared for property tax and assessment purposes shall not be conclusive evidence of property ownership in any court of law.

(b)(1) The state division of property assessment shall supervise the preparation, maintenance, revision and recording of all such property maps. It shall be the duty of the assessor to annually file a copy or reproduction of such property maps, as currently revised, with the county register of deeds, except in counties with a metropolitan form of government, who shall, without charge, accept, file, and preserve such copy or reproduction as a public record. Such copy or reproduction shall be filed on or before October 1 of each year, and shall reflect the status of property as of January 1. The copy or reproduction must use a format and storage medium approved by the director of the division of property assessments.

(b)(2) The state division of property assessment shall revise such property maps to indicate the proper boundary between adjoining counties upon receipt of a notice from the state board of equalization as provided in former § 5-2-115(d)(3) [repealed].

67-5-806. Use of property maps — Revision of property maps. [Effective on January 1, 2020. See the version effective until January 1, 2020.]

(a) Where any county or municipality other than metropolitan governments has prepared or has had prepared property maps, that identify parcels of land within the area of that local government, that assign a number or other identifying symbol to such parcels and that show names of streets and public ways, and where such maps have been made a matter of public record and have been filed in the office of the county registrar, the parcel number or other identifying symbol that a specific parcel has been assigned on the official property identification map or maps shall be a sufficient description and identification of such property for purposes of assessment. Property maps prepared for property tax and assessment purposes shall not be conclusive evidence of property ownership in any court of law.

(b)(1) The state division of property assessment shall supervise the preparation, maintenance, revision and recording of all such property maps. It shall be the duty of the assessor to annually file a copy or reproduction of such property maps, as currently revised, with the county register of deeds, except in counties with a metropolitan form of government, who shall, without charge, accept, file, and preserve such copy or reproduction as a public record. Such copy or reproduction shall be filed on or before April 15 of each year, and shall reflect the status of property as of January 1. The copy or reproduction must use a format and storage medium approved by the director of the division of property assessments.

(b)(2) The state division of property assessment shall revise such property maps to indicate the proper boundary between adjoining counties upon
receipt of a notice from the state board of equalization as provided in former § 5-2-115(d)(3) [repealed].


As used in §§ 11-14-201, 11-15-107, 11-15-108, and this part, unless the context otherwise requires:

(1)(A) “Agricultural land” means land that meets the minimum size requirements specified in subdivision (1)(B) and that either:
   (i) Constitutes a farm unit engaged in the production or growing of agricultural products; or
   (ii) Has been farmed by the owner or the owner’s parent or spouse for at least twenty-five (25) years and is used as the residence of the owner and not used for any purpose inconsistent with an agricultural use.

(B) To be eligible as agricultural land, property must meet minimum size requirements as follows: it must consist either of a single tract of at least fifteen (15) acres, including woodlands and wastelands, or two (2) noncontiguous tracts within the same county, including woodlands and wastelands, one (1) of which is at least fifteen (15) acres and the other being at least ten (10) acres and together constituting a farm unit;

(2) “Commissioner” means the commissioner of agriculture or the commissioner’s designee;

(3) “Forest land” means land constituting a forest unit engaged in the growing of trees under a sound program of sustained yield management that is at least fifteen (15) acres and that has tree growth in such quantity and quality and so managed as to constitute a forest;

(4) “Gross agricultural income” means total income, exclusive of adjustments or deductions, derived from the production or growing of crops, plants, animals, aquaculture products, nursery, or floral products, including income from the rental of property for such purposes and income from federal set aside and related agricultural management programs;

(5) “Local government advisory committee,” “Tennessee local government advisory committee,” or “Tennessee local government planning advisory committee” means the local government planning advisory committee created by § 4-3-727;

(6) “Open space easement” means a perpetual right in land of less than fee simple that:
   (A) Obligates the grantor and the grantor’s heirs and assigns to certain restrictions constituted to maintain and enhance the existing open or natural character of the land;
   (B) Is restricted to the area defined in the easement deed; and
   (C) Grants no right of physical access to the public, except as provided for in the easement;

(7) “Open space land” means any area of land other than agricultural and forest land, of not less than three (3) acres, characterized principally by open or natural condition, and whose preservation would tend to provide the public with one (1) or more of the benefits enumerated in § 67-5-1002, and that is not currently in agricultural land or forest land use. “Open space land” includes greenbelt lands or lands primarily devoted to recreational use;
(8) “Owner” means the person holding title to the land;
(9) “Person” means any individual, partnership, corporation, organization, association, or other legal entity;
(10) “Planning commission” means a commission created under § 13-3-101 or § 13-4-101;
(11) “Present use value” means the value of land based on its current use as either agricultural, forest, or open space land and assuming that there is no possibility of the land being used for another purpose;
(12) “Rollback taxes” means the amount of back tax differential payable under § 67-5-1008; and
(13) “State forester” means the director of the division of forestry.


As used in §§ 11-14-201, 11-15-107, 11-15-108, and this part, unless the context otherwise requires:

(1)(A) “Agricultural land” means land that meets the minimum size requirements specified in subdivision (1)(B) and that either:
   (i) Constitutes a farm unit engaged in the production or growing of agricultural products; or
   (ii) Has been farmed by the owner or the owner’s parent or spouse for at least twenty-five (25) years and is used as the residence of the owner and not used for any purpose inconsistent with an agricultural use.
(B) To be eligible as agricultural land, property must meet one (1) of the following minimum size requirements by consisting of:
   (i) A single tract of at least fifteen (15) acres, including woodlands and wastelands;
   (ii) Two (2) noncontiguous tracts within the same county, including woodlands and wastelands, one (1) of which is at least fifteen (15) acres and the other being at least ten (10) acres and together constituting a farm unit; or
   (iii) Two (2) noncontiguous tracts within the same county totaling at least fifteen (15) acres, including woodlands and wastelands, that are separated only by a road, body of water, or public or private easement and together constituting a farm unit;
(2) “Commissioner” means the commissioner of agriculture or the commissioner’s designee;
(3) “Forest land” means land constituting a forest unit engaged in the growing of trees under a sound program of sustained yield management that is at least fifteen (15) acres and that has tree growth in such quantity and quality and so managed as to constitute a forest;
(4) “Gross agricultural income” means total income, exclusive of adjustments or deductions, derived from the production or growing of crops, plants, animals, aquaculture products, nursery, or floral products, including income from the rental of property for such purposes and income from federal set aside and related agricultural management programs;
(5) “Local government advisory committee,” “Tennessee local government advisory committee,” or “Tennessee local government planning advisory committee” means the local government planning advisory committee created by § 4-3-727;
“Open space easement” means a perpetual right in land of less than fee simple that:
(A) Obligates the grantor and the grantor’s heirs and assigns to certain restrictions constituted to maintain and enhance the existing open or natural character of the land;
(B) Is restricted to the area defined in the easement deed; and
(C) Grants no right of physical access to the public, except as provided for in the easement;
“Open space land” means any area of land other than agricultural and forest land, of not less than three (3) acres, characterized principally by open or natural condition, and whose preservation would tend to provide the public with one (1) or more of the benefits enumerated in § 67-5-1002, and that is not currently in agricultural land or forest land use. “Open space land” includes greenbelt lands or lands primarily devoted to recreational use;
“Owner” means the person holding title to the land;
“Person” means any individual, partnership, corporation, organization, association, or other legal entity;
“Planning commission” means a commission created under § 13-3-101 or § 13-4-101;
“Present use value” means the value of land based on its current use as either agricultural, forest, or open space land and assuming that there is no possibility of the land being used for another purpose;
“Rollback taxes” means the amount of back tax differential payable under § 67-5-1008; and
“State forester” means the director of the division of forestry.

(a) When a parcel of land has been classified by the assessor of property as agricultural, forest, or open space land under this part, it shall be subsequently considered that its current use for agricultural or timber purposes or as open space used for neither of these purposes is its immediate most suitable economic use, and assessment shall be based upon its value in that current use, rather than on value for some other use as may be determined in accordance with part 6 of this chapter. It is the responsibility of the applicant to promptly notify the assessor of any change in the use or ownership of the property that might affect its eligibility under this part.
(b)(1) After a parcel of land has been classified by the assessor of property as agricultural, forest, or open space land under this part, the assessor of property shall record it on a separate list for the classified property. The assessor may record with the register of deeds the application for the classification of the property. However, if the assessor does not record the application, then the property owner shall record with the register of deeds the application for the classification of the property. Any fees that may be required shall be paid by the property owner.
(2) Henceforth, the assessor shall appraise the land and compute the taxes each year based upon both:
(A) The twenty-five percent (25%) of appraised value applicable to property in the farm classification and present use value; and
(B) Farm classification and value as determined under part 6 of this chapter, but taxes shall be assessed and paid only on the basis of farm
classification and present use value under this part.

(3) The taxes computed under part 6 of this chapter shall be used to compute the rollback taxes, as defined in § 67-5-1004 and as provided for in subsection (d).

(4) The general assembly finds that value as determined under subdivision (b)(2)(B) should not be deemed the value of property for any purpose other than a future assessment of rollback taxes, because it does not determine the actual tax liability of a qualifying owner at the time of valuation. Accordingly, value as determined under subdivision (b)(2)(B) shall not be deemed determinative of fair market value for any purpose other than the administration of property taxes under this title.

(c)(1) A parcel of land classified by the assessor as agricultural, forest or open space land under this part shall be valued by dividing three (3) into the sum of two (2) times the use value as defined in this subsection (c), plus the farm land value as defined in this subsection (c). The rate of increase in per acre present use values as determined under this subsection (c) shall not exceed a factor measured by the number of years since the last general reappraisal or updating of values in the county, times six percent (6%).

(2)(A) Use value shall be determined by dividing:

(i) The annual agricultural income estimate for such parcel as determined by the division of property tax assessment by;

(ii) The capitalization rate as determined in subdivision (c)(2)(C).

(B) For purposes of this part, “agricultural income estimate” means anticipated net return to land utilizing sound farming or forestry practices. In determining anticipated net return to land that is used for agricultural and forestry purposes, the division of property tax assessments shall consider farm income, or forestry income, soil productivity, topography, susceptibility to flooding, rental value and other factors that may serve to determine anticipated agricultural or forestry income. The annual agricultural income estimate for a parcel of open space land shall be the same as that for the least productive type of agricultural land.

(C) The capitalization rate shall be the maximum allowable rate on loans for terms in excess of five (5) years guaranteed by the federal Farm Service Agency or its successor, as of the assessment date for the year in which the use value schedule is being developed. The rate may be adjusted by no more than one hundred (100) basis points to reflect differences in land classes within a jurisdiction.

(3) Farm land value shall be determined by the division of property assessments based solely on farm-to-farm sales least influenced by commercial, industrial, residential, recreational or urban development, the potential for such development, or any other speculative factors.

(4) The state board of equalization, upon petition by at least ten (10) owners of agricultural, forest or open space land, or upon petition of any organization representing ten (10) or more owners of agricultural, forest or open space land, shall convene a hearing to determine whether the capitalization rate has been properly determined by the division of property tax assessments, whether the agricultural income estimates determined by the division of property tax assessments are fair and reasonable, or if the farm land values have been determined in accordance with this section. Such hearing shall be held in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, part 3. The petition shall be
filed at the office of the state board of equalization on or before twenty (20) days after the date the division of property assessments publishes notice of the availability of the proposed use value schedule in a newspaper of general circulation within the county.

(d)(1) The appropriate assessor shall compute the amount of taxes saved by the difference in present use value assessment and value assessment under part 6 of this chapter, for each of the preceding three (3) years for agricultural and forest land, and for the preceding five (5) years for open space land, and the assessor shall notify the trustee that such amount is payable, if:

(A) Such land ceases to qualify as agricultural land, forest land, or open space land as defined in § 67-5-1004;

(B) The owner of such land requests in writing that the classification as agricultural land, forest land, or open space land be withdrawn;

(C) The land is covered by a duly recorded subdivision plat or an unrecorded plan of development and any portion is being developed; except that, where a recorded plat or an unrecorded plan of development contains phases or sections, only the phases or sections being developed are disqualified;

(D) An owner fails to file an application as required by this part;

(E) The land exceeds the acreage limitations of § 67-5-1003(3); or

(F) The land is conveyed or transferred and the conveyance or transfer would render the status of the land exempt.

(2) When the tax rate for the most recent year of rollback taxes is not yet available, the assessor shall calculate the amount of taxes saved for the most recent year by using the last made assessment and rate fixed according to law, and the trustee shall accept tender of the amount determined to be owing.

(3) The amount of tax savings calculated under this subsection (d) shall be the rollback taxes due as the result of disqualification or withdrawal of the land from classification under this part. Rollback taxes shall be payable from the date written notice is provided by the assessor, but shall not be delinquent until March 1 of the following year. When the assessor determines there is liability for rollback taxes, the assessor shall give written notice to the tax collecting official identifying the basis of the rollback taxes and the person the assessor finds to be responsible for payment, and the assessor shall provide a copy of the notice to the responsible person. Rollback taxes shall be a first lien on the disqualified property in the same manner as other property taxes, and shall also be a personal responsibility of the current owner or seller of the land as provided in this part. The assessor may void the rollback assessment, if it is determined that the assessment was imposed in error, except there shall be no refund of rollback taxes that have been collected at the request of a buyer or seller at the time of sale. Liability for rollback taxes, but not property values, may be appealed to the state board of equalization by March 1 of the year following the notice by the assessor. However, property values fixing the amount of rollback taxes may only be appealed as otherwise provided by law.

(4)(A) If, under subdivision (d)(1), only a portion of a parcel is subject to rollback taxes, the assessor of property shall apportion the assessment of such parcel on the first tax roll prepared after such taxes become payable, and enter the apportioned amount attributable to such portion as a
separately assessed parcel on the tax roll.

(B) Such apportionment shall be made for each of the years to which the rollback taxes apply.

(e)(1) In the event that any land classified under this part as agricultural, forest, or open space land or any portion thereof is converted to a use other than those stipulated herein by virtue of a taking by eminent domain or other involuntary proceeding, except a tax sale, such land or any portion thereof involuntarily converted to such other use shall not be subject to rollback taxes by the landowner, and the agency or body doing the taking shall be liable for the rollback taxes. Property transferred and converted to an exempt or nonqualifying use shall be considered to have been converted involuntarily if the transferee or an agent for the transferee sought the transfer and had power of eminent domain.

(2) In the event the land involuntarily converted to such other use constitutes only a portion of a parcel so classified on the assessment rolls, the assessor shall apportion the assessment and enter the portion involuntarily converted as a separately assessed parcel on the appropriate portion of the assessment roll. For as long as the landowner continues to own the remaining portion of such parcel and for as long as the landowner’s lineal descendants collectively own at least fifty percent (50%) of the remaining portion of such parcel, the remaining portion so owned shall not be disqualified from use value classification under this part solely because it is made too small to qualify as the result of the involuntary proceeding.

(3) In the event that any land classified under this part as agricultural, forest, or open space land or any portion thereof is acquired by a bank, as defined in § 45-2-107(a)(1)(A), by a savings and loan association, as defined in § 45-3-104(a)(1), or by a holder of a deed of trust or mortgage in satisfaction or partial satisfaction of a debt previously contracted in good faith, such land or any portion thereof so acquired shall not be subject to rollback taxes assessed against or payable by the bank or savings and loan association, and shall be subject to rollback taxes, only if the land is used for a non-green belt purpose or after such land is sold by the bank, savings and loan association or a holder of a deed of trust or mortgage and then only as provided in subsection (d). This subdivision (e)(3) shall likewise apply to the temporary transfer of property classified under this part to a trustee in bankruptcy.

(4)(A) If any property or any portion of the property classified under this part as agricultural, forest, or open space land is disqualified by a change in the law or as a result of an assessor’s correction of a prior error of law or fact, then the property or any portion of the property that is disqualified shall not be assessable for rollback taxes. The property owner shall be liable for rollback taxes under these circumstances if the erroneous classification resulted from any fraud, deception, or intentional misrepresentation, misstatement, or omission of full statement by the property owner or the property owner’s designee.

(B) Nothing in this subdivision (e)(4) shall relieve a property owner of liability for rollback taxes if other disqualifying circumstances occur before the property has been assessed at market value for three (3) years.

(f) If the sale of agricultural, forest or open space land will result in such property being disqualified as agricultural, forest or open space land due to conversion to an ineligible use or otherwise, the seller shall be liable for
rollback taxes, unless otherwise provided by written contract. If the buyer declares in writing at the time of sale an intention to continue the greenbelt classification but fails to file any form necessary to continue the classification within ninety (90) days from the sale date, the rollback taxes shall become solely the responsibility of the buyer.

(g) For purposes of valuation pursuant to this section, the maximum acreage available for any one (1) owner classified as forest or open space land under this part shall be one thousand five hundred (1,500) acres. This subsection (g) shall operate to change the classification of any such land in excess of one thousand five hundred (1,500) acres that has been so classified under this part prior to July 1, 1984.

(h) Property passing to a lineal descendant of a deceased greenbelt owner, by reason of the death of the greenbelt owner, shall not be subject to rollback solely because the total greenbelt acreage of the new owner exceeds the maximum under § 67-5-1003, or will exceed the maximum following the transfer. Property exceeding the limit in these circumstances shall be disqualified from greenbelt classification, but shall not be assessable for rollback unless other disqualifying circumstances occur before the property has been assessed at market value three (3) years.

67-5-1331. Certification of valuation to local officials — Collection of tax.

(a) As soon as the comptroller of the treasury has received the valuation from the board of equalization, the comptroller of the treasury shall certify to the trustee and county assessor of property of each county in which any of such property lies, the amount to be taxed in such counties, respectively, for county purposes; and likewise to the city recorder and/or city official whose responsibility it is to collect the tax of any incorporated city or town the amount to be taxed by such city or town.

(b) [Deleted by 2019 amendment.]


The taxes so assessed in behalf of counties, towns, and cities shall be a first lien upon the property from January 1 of the year for which the taxes are assessed, and they shall become due and delinquent as all other ad valorem taxes.

67-5-1333. [Repealed.]


(a) The state board of equalization has jurisdiction over the valuation, classification and assessment of all properties in the state.

(b) The board shall have and perform the following duties:

(1) Receive, hear, consider and act upon complaints and appeals made to the board;

(2) Hear and determine complaints and appeals made to the board concerning exemption of property from taxation;

(3) Take whatever steps it deems are necessary to effect the equalization of assessments, in any taxing jurisdiction within the state in accordance with the laws of the state;
(4) Carry out such other duties as are required by law; and

(5) Provide assistance and information on request to members and committees of the general assembly relative to the taxation, classification and evaluation of property.

(c) Appeals to the state board of equalization from initial determinations in exemption and tax relief cases must be filed within ninety (90) days from the date notice of the determination was sent. Appeals from initial decisions of administrative judges or hearing examiners for the state board of equalization must be filed within thirty (30) days from the date the initial decision is sent.

(d) The board shall assess the cost of hearing or processing a taxpayer appeal in an amount not to exceed ten dollars ($10.00) per filing, pursuant to rules of the board. For purposes of this subsection (d), “filing” means one (1) submission that may include multiple parcels, including real and personal property, with a clear nexus to specific assessments or exemptions under appeal. The board shall not charge fees and costs on the appeal of the primary residence of the following persons:

1. Persons sixty-five (65) years of age or older, if the appraised value of the residence is one hundred fifty thousand dollars ($150,000) or less; and

2. Indigent persons who file a Uniform Civil Affidavit of Indigency with the board.


(a) In addition to the powers and duties conferred upon the state board of equalization by § 67-5-1501 or any other provision of this code, the state board of equalization may by resolution create an assessment appeals commission consisting of not less than three (3) nor more than six (6) members, three (3) members of which shall constitute a quorum for the transaction of business, and may delegate to such assessment appeals commission the jurisdiction and duties conferred by law upon the state board of equalization to hear and act upon all complaints and appeals regarding the assessment, classification and value of property for purposes of taxation, including, but not limited to, complaints and appeals from assessments made by the comptroller of the treasury, complaints and appeals from actions of local boards of equalization, complaints and appeals concerning exemption of property from taxation, complaints and appeals from assessments made by the division of property assessments, and complaints in inheritance tax cases that concern only the valuation of property in the estate.

(b)(1) The members of the assessment appeals commission shall be appointed by the state board of equalization.

(2) Persons who may be appointed to the assessment appeals commission shall be residents of the state and be at least eighteen (18) years of age.

(3) Members of the state board of equalization, the executive secretary to the state board of equalization, the director of property assessment and local and state officials shall not be precluded from appointment to the assessment appeals commission by virtue of their positions.

(4) At least one (1) of the members shall be a person other than a full-time state official.

(c) The state board of equalization shall designate the chair of the assessment appeals commission.

(d) The members of the assessment appeals commission shall take office for
a term of one (1) year and until their successors shall take office.

(e) In the event that there is a vacancy in the membership of the assessment appeals commission, the state board of equalization shall fill the vacancy in the same manner as initial appointments.

(f)(1) The assessment appeals commission shall meet at the call of the executive secretary to the state board of equalization.

(2) A majority of the members of the assessment appeals commission shall constitute a quorum.

(g) The assessment appeals commission shall follow such rules and regulations of practice and procedure that may be promulgated by the state board of equalization. The assessment appeals commission may delegate its decision-making authority to a specific panel member when circumstances warrant an evidentiary record to remain open for not more than thirty (30) days after the public hearing.

(h)(1) It is the duty of the members to discharge the duties of the assessment appeals commission without compensation except that persons who are not officials of this state, who may from time to time serve as members of the assessment appeals commission, shall be paid at the rate of ninety-five dollars ($95.00) per day for each day or part of a day in attendance at meetings of the assessment appeals commission.

(2) The members, whether or not they are state officials, shall be reimbursed necessary travel and per diem expenses as prescribed in comprehensive travel regulations by the commissioner of finance and administration for employees of this state, during such service on the assessment appeals commission.

(i)(1) At any time prior to, during or after any proceeding before the assessment appeals commission, authorized by this section, it may certify a question to the state board of equalization if such question is determinative or partially determinative of the proceeding and if such question is found by the assessment appeals commission to be a matter of policy to be determined by the state board of equalization.

(2) Proceedings before the assessment appeals commission may be suspended pending the determination of the question certified to the state board of equalization.

(j)(1) Actions taken by the assessment appeals commission shall be final as if the actions were taken by the state board of equalization; provided, that the state board of equalization may, in its sole discretion, within forty-five (45) days of any final action taken by the assessment appeals commission, enter an order requiring a review of the action of the assessment appeals commission by the state board of equalization, in which case the action shall not become final until the state board of equalization has rendered its final decision in the matter.

(2) A party desiring the state board of equalization to review an action of the assessment appeals commission must file a written petition with the executive secretary to the state board of equalization within fifteen (15) days of that action of the assessment appeals commission.

(3) The above shall not be construed to limit in any way the authority of the state board of equalization to order a review upon its own motion within forty-five (45) days of an action of the assessment appeals commission.

(4) In the event that the state board of equalization does exercise its discretion to review any action of the assessment appeals commission, review may be upon the record before the assessment appeals commission or
(k) If the state board of equalization does not exercise its discretion to review a matter heard by the assessment appeals commission, then the assessment appeals commission shall issue a notice pursuant to § 67-5-1512(a)(3), or, upon request, a certificate of assessment or other final certificate of its actions. The date of the notice or certificate shall commence the period for seeking judicial review of the final order of the board or commission.

(l)(1) The assessment appeals commission shall prepare and maintain records of its proceedings in the form of minutes.

(2) The minutes, together with all other papers and records of the assessment appeals commission, shall be kept and maintained in the office of the executive secretary to the state board of equalization.

67-5-1606. Annual overall ratio of appraisal — Ratios for classifications — Public utility properties and operating properties of modern market telecommunications providers.

(a) Based upon the appraisal ratio studies and other pertinent information, the state board of equalization shall annually determine the overall ratio of appraisal for property in each county of the state.

(b) In addition, the board may also determine ratios for the respective classifications of property for each county.

(c) The state board of equalization shall each year certify to the comptroller of the treasury appraisal levels, as are determined by the board for each county, to be used by the office of state assessed properties for purposes of computing the assessments of public utility properties and operating properties of modern market telecommunications providers.


(a) The county trustee shall act as collector of all county property taxes and of all municipal property taxes when the municipality does not collect its own taxes. A municipality that certifies its delinquent tax list to the trustee or the delinquent tax attorney selected pursuant to § 67-5-2404(a)(1), is deemed to have authorized, without further action of the municipality, county officers to do all things authorized under parts 18-28 of this chapter with respect to the collection of delinquent municipal taxes, including the ability to convey any and all interests of the municipality in the property sold, until such time as the municipality’s legislative body determines otherwise and causes a document evidencing the determination to be recorded in the office of the register of deeds. This subsection (a) is procedural and remedial in its application and is made applicable retroactively to the extent allowed by law.

(b) These taxes shall be paid to the trustee at the trustee’s office at the county seat or at such other place or places as the trustee may designate. A trustee is authorized to adopt a policy of not accepting current county real property taxes due when delinquent real property taxes are owing; provided, that this prohibition shall not apply when the obligor of one (1) or more of the prior year’s taxes is in bankruptcy or there is a dispute as to the responsibility for such taxes.

(c)(1) The county trustee may designate a bank and/or the branches that are located within the county to act as a collection agent for the trustee and
accept the deposit of county and municipal property taxes. The county
trustee shall establish an account with the bank for such purpose, which
shall be restricted to the deposit of county and municipal property taxes.

(2) The taxpayer shall be required to furnish to the bank evidence of the
property taxes that are due and payable and in no case shall such taxes be
accepted by the bank when such taxes are delinquent. The bank shall use a
deposit form for deposit of property taxes, which shall contain the following
language: "In accepting deposits of taxpayers, the bank is acting as an agent
for the trustee." The taxpayer will be provided a copy of the deposit form at
the time of the deposit. The bank shall provide to the trustee such evidence
of the taxes deposited into the account and a copy of the deposit forms at
least every three (3) business days.

(3) The county trustee shall determine whether the correct amount of
property taxes was deposited into the account and whether interest is due on
such property before issuance of the tax receipt to the taxpayer.

(4) The taxpayer making a payment of property taxes in such manner is
not relieved of interest upon failure of the bank to provide evidence of the
deposit of such taxes prior to the due date.

(d) When any person pays property taxes that are the legal obligation of a
third party by mistake, inadvertence or otherwise, the person making the
payment is subrogated to the rights of the government to which the property
taxes are paid, against the person whose property taxes were paid. However, at
any judicial sale of such property, the clerk shall not enter a bid as provided in
§ 67-5-2506, or any other provision of law, on behalf of any government entity.

(e)(1) Any county trustee may accept partial payments of property taxes.

(2) Prior to any county trustee accepting partial payment of property
taxes, the county trustee shall file a plan with the comptroller of the
treasury. The plan shall indicate that the county trustee’s office has the
accounting system technology to implement a program for partial payment
of property taxes. The plan shall also indicate whether such a program will
be implemented within the existing operating resources of the office or
indicate prior approval of the county legislative body if additional operating
resources are needed. This subdivision (e)(2) does not apply to any county
which has implemented a partial payment program prior to April 19, 1995.

(3) A county trustee may accept taxes paid by electronic funds transfer,
including, but not limited to, bank customer preauthorized payments, wire
transfers or ACH credits. If the entire amount of taxes due is not paid prior
to the delinquency date for such taxes, the entire property shall be subject to
the tax lien and enforcement by a tax sale or other legally authorized
procedures. Unless partial payment is made by electronic transfer of funds,
if the county trustee accepts partial payment within ten (10) days of the
delinquency date, or at any time following such delinquency date, then prior
to accepting such payment the county trustee must inform the taxpayer of
the delinquency date and must advise such taxpayer that the property may
be subjected to tax lien and enforcement by tax sale or other legally
authorized procedures.

(4) Direct bank transfers and partial payments are subject to the follow-
ing guidelines:

(A) Vouchers issued pursuant to the tax relief program shall be used as
all or a portion of the final payment;

(B) A receipt shall be issued to the taxpayer for any partial payment of
taxes. The receipt shall state that:

(i) The payment is a partial payment of property taxes;

(ii) The balance owing on such taxes that must be paid prior to the delinquency date; and

(iii) A failure to pay the entire amount of the taxes prior to the delinquency date subjects any unpaid taxes to the interest applicable to delinquent taxes and subjects the entire property on which there is a lien for taxes to a tax sale. The final partial payment shall show that a zero (0) balance is owing or shall state that the taxes are paid in full. Receipts shall also be sent to the taxpayer for payments made by direct bank transfer of funds; and

(C) In any 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, the trustee may set a minimum requirement of no more than the lesser of fifteen percent (15%) or twenty-five dollars ($25.00) for any partial payment.

67-5-1808. Partial payment of property taxes.

(a) Notwithstanding any general law or any private act to the contrary, the county trustee may accept partial payments of property taxes, including, but not limited to, payment by electronic transfers, bank customer preauthorized payments, wire transfers or ACH credits, for the current tax year prior to the date the tax rate is established for the current tax year. Any partial payment of property taxes for the current tax year that is received before the later of July 1 or the date the property tax rate for the current year is established shall be held in a designated revenue account established to hold undistributed taxes and then transferred to the revenue account established for the current year’s taxes after the later of July 1 or the date the property tax rate for the current year is adopted by the county legislative body.

(b) Prior to any county trustee accepting partial payment of property taxes in accordance with this section, the county trustee shall file a plan with the comptroller of the treasury at least thirty (30) days prior to the acceptance of the payments. The comptroller of the treasury must acknowledge the receipt of the plan and provide written comments regarding the plan to the trustee prior to implementation. The plan should contain the following:

(1) A description of the accounting system technology or manual processes to be used to record partial payments of property taxes for the current tax year prior to the date the tax rate is established;

(2) A statement indicating whether such a process of collecting property taxes will be implemented within the existing operating resources of the office or an indication of prior approval by the county legislative body if accounting system upgrades or additional operating resources are needed; and

(3) Documentation of the internal controls that will ensure all property tax payments are being recorded and accounted for as required by law.

(c)(1) The delinquent date for property taxes and interest applicable to delinquent property taxes is not affected by application of a partial payment system established in such county.

(2) Interest applies only to the amount of delinquent property taxes
remaining due as of the date property taxes become delinquent.

(d) If a partial payment of property taxes is accepted, such partial payment does not release the tax lien on the property upon which the taxes were assessed.

(e) This section shall become effective upon the adoption of a resolution by two-thirds (⅔) vote of the county legislative body of any county to which it may apply. The presiding officer of the county legislative body shall certify a copy of the resolution to the secretary of state.

67-5-1903. Annual report of delinquent taxes and double assessments.

(a)(1) Annually, at the July meeting of the county legislative body, the trustee shall present a report to the county legislative body of all delinquent taxes and double assessments in the county. This report shall be verified by affidavit of the trustee and filed with the county clerk.

(2) The report shall be spread upon the minutes of the county legislative body and municipality, respectively.

(b)(1) The county legislative body shall proceed to examine the report, and shall allow the trustee a credit for such taxes so reported insolvent or delinquent and for double assessments, as it may be satisfied remain uncollected without the default of the trustee, and no more.

(2) The county legislative body shall not allow the trustee a credit for any item on the report, even though duly sworn to by the trustee, if, after examining each credit, the county legislative body has knowledge or information showing the item to be inaccurate.

(c) A list of such allowances shall be made out and certified by the county clerk and transmitted to the proper authorities of the state, county and municipality, respectively.

(d) All of the items for which the county legislative body shall not allow a credit shall be charged against the trustee; and, notwithstanding the county legislative body may have allowed the trustee credits, such acts shall not operate as an estoppel in the event that it should afterwards appear that such credit was improperly allowed; provided, that no such items for which the county legislative body shall have allowed credit shall be charged against or collected from any surety on the bond of any such trustee.

(e) The report referred to in this section must not include delinquent taxes that have been delivered by the trustee to the delinquent tax attorney for the filing of court actions to collect the taxes.

67-5-1904. [Repealed.]

67-5-2404. Delivery of delinquent tax list to attorney — Appeals.

(a)(1) After the publication of the notice in § 67-5-2401, and between the dates of February 1 and April 1, the trustee shall deliver the delinquent lists showing all unpaid land taxes to an attorney chosen by the trustee with the approval of the county mayor.

(2) Compensation of the attorney shall be determined in advance through negotiations between the trustee and the attorney, subject to the approval of the county legislative body, but in no event shall such compensation exceed ten percent (10%) of all delinquent land taxes collected.
(3) It is the duty of the county trustee and the county mayor to cause the attorney to prepare and file suits in the chancery or circuit court for the collection of all delinquent land taxes, and all arrears of taxes due the state, county and municipality.

(4) In order that delinquent and municipal taxes may be collected at the same time as other taxes, it is the duty of the proper municipal officers to furnish the county trustee or the trustee’s attorney certified lists of delinquent municipal taxes, unless otherwise provided.

(5) This subsection (a) shall not apply to counties with a metropolitan form of government or to counties having the following populations according to the 1970 federal census or any subsequent federal census:

<table>
<thead>
<tr>
<th>not less than</th>
<th>nor more than</th>
</tr>
</thead>
<tbody>
<tr>
<td>3,765</td>
<td>5,200</td>
</tr>
<tr>
<td>6,600</td>
<td>6,700</td>
</tr>
<tr>
<td>8,100</td>
<td>8,200</td>
</tr>
<tr>
<td>12,300</td>
<td>12,350</td>
</tr>
<tr>
<td>12,400</td>
<td>12,550</td>
</tr>
<tr>
<td>14,700</td>
<td>14,800</td>
</tr>
<tr>
<td>36,900</td>
<td>37,100</td>
</tr>
<tr>
<td>56,200</td>
<td>56,300</td>
</tr>
</tbody>
</table>

(b)(1) After the publication of the notice in § 67-5-2401, and between the dates of February 1 and April 1, the trustee shall deliver the delinquent lists showing all unpaid land taxes to an attorney chosen by the trustee with the approval of the county mayor, and it shall be the duty of the county trustee and the county mayor to cause the attorney to prepare and file suits in the chancery or circuit court for the collection of all delinquent land taxes, and all arrears of taxes due the state, county and municipality; and, so that delinquent and municipal taxes may be collected at the same time as other taxes, it shall be the duty of the proper municipal officers to furnish the county trustee or the trustee’s attorney certified lists of delinquent municipal taxes, unless otherwise provided.

(2) This subsection (b) shall apply only to counties with a metropolitan form of government and to counties having the following populations according to the 1970 federal census or any subsequent federal census:

<table>
<thead>
<tr>
<th>not less than</th>
<th>nor more than</th>
</tr>
</thead>
<tbody>
<tr>
<td>3,765</td>
<td>5,200</td>
</tr>
<tr>
<td>6,600</td>
<td>6,700</td>
</tr>
<tr>
<td>8,100</td>
<td>8,200</td>
</tr>
<tr>
<td>12,300</td>
<td>12,350</td>
</tr>
<tr>
<td>12,400</td>
<td>12,550</td>
</tr>
<tr>
<td>14,700</td>
<td>14,800</td>
</tr>
<tr>
<td>36,900</td>
<td>37,100</td>
</tr>
<tr>
<td>56,200</td>
<td>56,300</td>
</tr>
</tbody>
</table>

(c)(1) Upon written agreement between the county trustee and the clerk of the court where suit has been filed for collection of delinquent taxes, the county trustee may continue to collect delinquent property taxes, including penalty and interest due, regarding any property included on the delinquent
tax list delivered by the county trustee to an attorney for the filing of suits for collection until such property has been sold at a delinquent tax sale if the offices of the court clerk and the county trustee have computer systems that are sufficiently connected so as to enable the county trustee to collect the correct amount of taxes, penalties, and interest due. The county trustee shall pay over to the court clerk the entire amount so collected pursuant to such agreement and the court clerk shall allocate such amount as if the moneys were collected by the court clerk. This subsection (c) shall only apply to 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, upon adoption of a resolution by a two-thirds (\( \frac{2}{3} \)) vote of the county legislative body authorizing the county trustee to collect delinquent property taxes as provided in this subsection (c).

(2) Upon written agreement between the county trustee and the clerk of the court where suit has been filed for collection of delinquent taxes, the county trustee may continue to collect delinquent property taxes, including penalty, interest, fees, and costs on all property included on the delinquent list delivered by the county trustee to the delinquent tax attorneys appointed for the filing of suits until the time such properties are sold in a delinquent tax sale. The county trustee shall pay over or allocate to the court clerk the entire amount so collected pursuant to such agreement and the court clerk, or the county trustee pursuant to such agreement, shall allocate such amount as if the moneys were collected by the court clerk. This subdivision (c)(2) shall apply to any county having over three hundred thousand (300,000) tax parcels, upon adoption of a resolution by a two-thirds (\( \frac{2}{3} \)) vote of the county legislative body authorizing the county trustee to collect delinquent taxes as provided in this subdivision (c)(2).

(d) If a taxpayer or other adverse party to the tax entity appeals a judgment or other order in an action to collect or enforce a lien for unpaid taxes, or files suit for recovery pursuant to chapter 1, part 9 of this title, or to set aside a tax sale pursuant to § 67-5-2504, the court may, in its discretion, and upon the tax entity prevailing in such action, award reasonable attorneys’ fees in addition to the compensation set forth in this section. Any request for such fees shall be supported by affidavit and such fees shall become additional expenses of the tax suit for the purposes of § 67-5-2410(d), and shall be secured by the lien in favor of the tax entity as costs accruing on the taxes pursuant to § 67-5-2101(a). Nothing in this subsection (d) shall be construed as authorizing an award of attorney’s fees in favor of a taxpayer or other adverse party to the tax entity.

(e) The maximum compensation provisions in this section and §§ 67-5-2410, 67-5-2501, and 67-5-2506 shall not be applicable to nor limit fees or expenses authorized by the court to be paid to the delinquent tax attorney pursuant to subsection (d), §§ 67-5-2410(d), 67-5-2502(c)(2), 67-5-2701(l), and 67-5-2702(g) or any other law. This subsection (e) is intended to be procedural and remedial in its application and is made applicable retroactively to the extent allowed by law.


(a)(1) In the event of a sale under a decree of the court, the property shall be advertised in one (1) sale notice, which notice shall set out the names of the
owners of the different tracts or parcels of land and describe the property and set out the amount of judgment against each defendant. The description of the property shall include a concise description, that means a reference to a deed book and page that contains a complete legal description of the property or the official property number as provided by § 67-5-806, and may also include a common description of the property, which may include street name and number, map and parcel number, number of acres, or any other description which might help identify the property as it is commonly known. The purpose of the common description is to help identify the property that is described in the concise description. Any error or defect in the common description shall not in any way void any sale of the property; provided, that the concise description makes accurate reference to the last conveyance of the property by correct reference to a deed book and page or the official property number as provided by § 67-5-806.

(2) A notice of the tax sale shall be published at least once in a newspaper of general circulation in the county where the parcels are located, or, with the approval of the court, the notice may be published by printed handbills publicly posted in the county where the parcels are located in such manner as the court may determine will provide adequate public awareness of the sale. Any such publication shall first occur at least twenty (20) days before the sale date.

(3) Notice to parties or others in delinquent tax suits and sales shall be governed by the Tennessee Rules of Civil Procedure, except as modified in this chapter or as they may be inconsistent with the statutory scheme for the collection of delinquent property taxes set out in this chapter, and may be forwarded to the address of an owner of the property that is on record in the office of the assessor of property. If there is any remainder after the proceeds of the sale have been distributed pursuant to § 67-5-2501, the party receiving notice pursuant to this subdivision (a)(3) shall also be given notice of the amount of proceeds resulting from the sale, the division of such proceeds, and the remainder.

(4) A person, who is either expressly or impliedly authorized by another person to receive mail on behalf of the other person, is authorized to sign a receipt on behalf of the other person accepting registered or certified mail or correspondence delivered by an alternative delivery service, containing either a summons, complaint, or summary of the proceeding or a notice that has been or is to be filed in a tax proceeding. In every tax proceeding, the burden of proving by clear and convincing evidence that a person who signed such a receipt for a different person and was, in fact, at that time expressly prohibited in writing from accepting mail for the second person, shall be upon the person challenging the sufficiency of the service or notice.

(5)(A) Service on or notice to a nominee or agent of an owner, where the nominee or agent is identifiable from information provided in the deed or deed of trust, shall constitute service on or notice to the owner.

(B) Service on or notice to a nominee or agent of an owner, where the nominee or agent is identifiable from information provided in the deed or deed of trust, shall constitute service on or notice to all assignees of the owner if evidence of the assignment has not been recorded in the office of the register of deeds in the county where the parcel is located.

(C) This subdivision (a)(5) is intended to be procedural and remedial in application and is made applicable retroactively to the extent allowed by
law.

(6) The clerk or special master conducting the sale may, on suggestion of the delinquent tax attorney, withdraw any parcel from the sale.

(b) It is the responsibility of the property owner to register the property owner’s name and address with the assessor of property of the county in which the land lies.

(c)(1) For the purposes of this chapter, unless the context requires otherwise:

(A) “Diligent effort to give actual notice of the proceedings” means a reasonable effort to give notice which is reasonably calculated, under all the circumstances and conditions, to apprise interested persons of the pendency of the proceedings in time to afford them an opportunity to prevent the loss of their interest in the parcel. Such effort shall be such as one desirous of actually informing the persons might reasonably adopt to accomplish it. Such effort does not, however, require that an interested person receive actual notice. Nor does it require the plaintiff to search records or sources of information in addition to that information available in the specific offices listed in subdivision (c)(2);

(B) “Interested person”, “person owning an interest in a parcel” and “owner” means a person, including any governmental entity, that owns an interest in a parcel and includes a person, including any governmental entity, that holds a lien against a parcel or is the assignee of a holder of such a lien. “Interested person” also includes a person or entity named as nominee or agent of the owner of the obligation that is secured by the deed or a deed of trust and that is identifiable from information provided in the deed or a deed of trust, which shall include a mailing address or post office box of the nominee or agent. However, a person named as a trustee under a deed of trust, contract lien or security instrument, is not included in such definition unless the person has a separate interest in the parcel;

(C) “Parcel” means a tract or item of real or personal property which is the subject of a judicial proceeding to obtain a personal judgment for the taxes owing or to enforce the lien securing the payment of delinquent property taxes by a sale of the tract or item; and

(D) “Proceeding” and “proceedings” means a judicial proceeding filed by a governmental entity for the purpose of collecting delinquent property taxes owing the entity or including the enforcement of the first lien securing such taxes. The court shall have jurisdiction to determine all issues arising in the proceedings including issues arising before and after the confirmation of the sale of a parcel, including redemption, disposition of excess proceeds and all issues arising pursuant to § 67-5-2507.

(2) The delinquent tax attorney shall make a reasonable search of the public records in the offices of the assessor of property, trustee, the register of deeds, and the local office where wills are recorded, seeking to identify and locate all interested persons as to each parcel listed on the county and municipal delinquent tax lists filed in the cause. The court shall set a reasonable attorney’s fee per parcel, as defined in subdivision (c)(1), per year of delinquent taxes owed and per taxing entity, for the services required by this subsection (c), which shall become an additional expense of the proceeding and shall be secured by the first lien in favor of the tax entity pursuant to § 67-5-2101. The fee shall be charged to each pending parcel listed on the county and municipal delinquent tax lists filed in the tax proceeding and
each parcel subsequently turned over for collection in a tax proceeding.

(3) The delinquent tax attorney shall make a diligent effort to give actual notice of the proceedings to all interested persons, as identified by the searches described in subdivision (c)(2).

(d) A tax sale notice, which shall be the same or substantially the same as the advertised notice, may be recorded in the register of deeds’ office for the county in which the property is located upon the setting of the tax sale date. The recording cost shall be divided between the parcels of land listed in the tax sale notice and added as an additional court cost to each such parcel of land. This tax sale notice shall be recorded for informational purposes only and no release shall be required.

(e)(1) Any owner of a surface interest in property overlying a mineral interest may record a declaration of the owner’s interest in such land with the register of deeds in the county where the mineral interest is located. Declaration forms shall be available at the register’s office and shall include the name of the owner of mineral interest beneath the surface. Declaration forms received by the register’s office shall be recorded by the register in the dormant mineral interest record. Declaration forms shall be indexed under the names of the mineral interest owners as grantor or grantors and under the names of the surface owners as grantee or grantees. Recording the declaration of surface ownership shall entitle surface owners to receive notice described in subdivision (e)(2).

(2) In the event of the sale of severed mineral interest property pursuant to § 67-5-2501, the clerk of the court shall send, by certified return receipt mail, a notice of proceedings regarding the sale of that mineral interest to any owner of the surface interest who has recorded a declaration of surface ownership as described in subdivision (e)(1).

(3)(A) The owner of surface interest who has recorded a declaration of surface ownership according to subdivision (e)(1), and who has received notice of delinquent tax proceedings according to this section may, within one hundred twenty (120) days after the sale pursuant to § 67-5-2501, purchase the mineral interest beneath the owner’s tract for a percentage of the total amount of such sale, which percentage shall be derived from the percentage that the owner’s surface interest bears to the total surface area of the property connected with the mineral interest sold at such tax sale.

(B) Such surface owner shall tender to the clerk of court such amount, including a pro-rated amount of the penalty and interest paid, at the same percentage rate. The clerk shall, within thirty (30) days of receipt of such amount pay the same amount to the person who purchased the mineral interest at the tax sale. The surface owner shall, in addition, pay the clerk for the clerk’s services in such transaction.

(f) Any sale under this section may be adjourned and rescheduled one (1) time for cause without an additional newspaper publication or decree, upon compliance with the following provisions:

(1) The sale must be held within one (1) year of the originally scheduled date;

(2) The postponement or adjournment must be to a specified date and time, and must be posted or announced at the date, time, and location of the scheduled sale date; and

(3) If the postponement or adjournment is for more than thirty (30) days, notice of the new date, time, and location must be mailed no less than ten
(10) calendar days prior to the sale date via regular mail to the parties to the suit, with a copy of such notice filed with the clerk of court.


(a) An order confirming the sale of a parcel shall confer the right to possession of the parcel to the purchaser effective upon entry of the order. On such date, the risk of loss shall transfer from the original owner to the purchaser. In the event of a loss occurring after the sale and before the order confirming the sale is entered, the court shall, on motion of the purchaser filed before the order confirming the sale becomes final, determine whether any portion of the purchaser's bid should be refunded to the purchaser.

(b) A writ of possession shall, upon application of the purchaser, in a proper case, be ordered by the court in which the tax sale has been made. A purchaser not making an advance demand for rents or profits shall have no rights to rents or profits from a taxpayer who has remained in possession during the redemption period.

67-5-2505. Lien rights of non-governmental entity when property bought by county with population of not less than 27,200 or not more than 27,300 at tax sale.

(a) Whenever a county with a population of not less than twenty-seven thousand two hundred (27,200) nor more than twenty-seven thousand three hundred (27,300), according to the 2010 census or any subsequent census, acquires property at a tax sale, any non-governmental entity holding a vested and duly recorded contractual right to the payment of fees or assessments secured by such property retains such right; provided, that the non-governmental entity may only enforce such contractual rights against the county through the exercise of its lien rights against the property.

(b) Notwithstanding subsection (a), a county with a population of not less than twenty-seven thousand two hundred (27,200) nor more than twenty-seven thousand three hundred (27,300), according to the 2010 census or any subsequent census, is liable for the payment of the fees and assessments described in subsection (a) if the county makes actual use of the property purchased at the tax sale.

67-5-2506. Sale of land for county taxes only.

(a)(1) When any land must be sold for payment of delinquent county taxes only, it shall be sold under the provisions of this part and parts 20 and 24 of this chapter so far as they apply.

(2) It is the duty of the clerk of the court ordering the sale to bid, on behalf of the governmental entities for which the taxes are owing, to ascertain the amount due for taxes, interest, penalties and costs, where no other bidder offers the same or higher bid; provided, that, in the case of property where the county legislative body has determined that no bid should be made on behalf of the governmental entities to which taxes are owing due to a determination that such property poses an environmental risk or has financial liabilities associated with the property such that it is not in the best interest of the county to take possession of the property, the clerk shall not offer a bid. The county legislative body may also make a determination that no bid shall be made on behalf of the governmental entities on nonbuildable
or nonconforming parcels, including, without limitation:
(A) Storm water detention basins;
(B) Drainage ditches;
(C) Private road right-of-ways;
(D) Private drives;
(E) Common open areas; and
(F) Utility easements.

(3) Up to ten percent (10%) of the sale proceeds shall be applied, first, to payment of any unpaid balance of compensation due the prosecuting attorney; second, the proceeds of the sale shall be applied to the costs of the suits; and third, the remainder shall be applied to the county first and second, to any municipality having a tax lien on the same property.

(4) This subsection (a) does not apply to counties with a metropolitan form of government or to counties having the following populations, according to the 1970 federal census or any subsequent federal census:

<table>
<thead>
<tr>
<th>not less than</th>
<th>nor more than</th>
</tr>
</thead>
<tbody>
<tr>
<td>3,765</td>
<td>5,200</td>
</tr>
<tr>
<td>6,600</td>
<td>6,700</td>
</tr>
<tr>
<td>8,100</td>
<td>8,200</td>
</tr>
<tr>
<td>12,300</td>
<td>12,350</td>
</tr>
<tr>
<td>12,400</td>
<td>12,550</td>
</tr>
<tr>
<td>14,700</td>
<td>14,800</td>
</tr>
<tr>
<td>36,900</td>
<td>37,100</td>
</tr>
<tr>
<td>56,200</td>
<td>56,300</td>
</tr>
</tbody>
</table>

(b)(1) When any parcel is sold for payment of delinquent taxes, it shall be sold pursuant to this chapter. This subdivision (b)(1) is procedural and remedial in its application and is made applicable retroactively to the extent allowed by law.

(2) It is the duty of the clerk of the court ordering the sale to bid, on behalf of the governmental entities for which the taxes are owing, to ascertain the amount due for taxes, interest, penalties and costs, where no other bidder offers the same or higher bid; provided, that, in the case of property where the county legislative body has determined that no bid should be made on behalf of the governmental entities to which taxes are owing due to a determination that such property poses an environmental risk, the clerk shall not offer a bid.

(3) The proceeds from such sale shall be applied, first, to the payment of the penalty allowed as compensation for prosecuting the suits; second, to the costs; and third, the remainder shall be prorated, first, to the county and, second, to any municipality that has a tax lien thereon.

(4) This subsection (b) applies only to counties with a metropolitan form of government and to counties having the following populations, according to the 1970 federal census or any subsequent federal census:

<table>
<thead>
<tr>
<th>not less than</th>
<th>nor more than</th>
</tr>
</thead>
<tbody>
<tr>
<td>3,765</td>
<td>5,200</td>
</tr>
<tr>
<td>6,600</td>
<td>6,700</td>
</tr>
<tr>
<td>8,100</td>
<td>8,200</td>
</tr>
<tr>
<td>12,300</td>
<td>12,350</td>
</tr>
</tbody>
</table>
67-5-2701. Procedure for redemption of property.

(a)(1)(A) Upon entry of an order confirming a sale of a parcel, a right to redeem shall vest in all interested persons. The right to redeem shall be exercised within the time period established by this subsection (a) beginning on the date of the entry of the order confirming the sale, but in no event shall the right to redeem be exercised more than one (1) year from that date. The redemption period of each parcel shall be determined by the court prior to the tax sale of the parcel and may also be stated in the order confirming the sale.

(B) Unless the court finds sufficient evidence to order a reduced redemption period pursuant to this section, the redemption period for each parcel shall be one (1) year.

(C) The redemption period shall be determined for each parcel based on the period of delinquency. Once the period of delinquency is established, the redemption period shall be set on the following scale:

(i) If the period of delinquency is five (5) years or less, the redemption period shall be one (1) year from the entry of the order confirming the sale;

(ii) If the period of delinquency is more than five (5) years but less than eight (8) years, the redemption period shall be one hundred eighty (180) days from the entry of the order confirming the sale; or

(iii) If the period of delinquency is eight (8) years or more, the redemption period shall be ninety (90) days from the entry of the order confirming the sale.

(D) For all property for which a showing is made pursuant to subdivision (a)(2), the redemption period shall be thirty (30) days from the entry of the order confirming the sale without regard to the number of years of delinquent taxes owed on the property, beyond that required to make the property legally eligible for the sale.

(2) A reasonable basis to believe that real property is vacant, or, in the case of vacant land, a reasonable basis to believe that the property is abandoned, shall, at a minimum, be based upon periodic inspections of the property over a two-month period at different times of the day where three (3) or more inspections reveal evidence of abandonment.

(3) As used in this section:

(A) “Evidence of abandonment” includes, but is not limited to, any of the following conditions:

(i) Overgrown or dead vegetation;

(ii) Accumulation of newspapers, circulars, flyers, or mail;

(iii) Past due utility notices, disconnected utilities, or utilities not in use;

(iv) Accumulation of trash, refuse, or other debris;

(v) Absence of window coverings such as curtains, blinds, or shutters;

(vi) One (1) or more boarded, missing, or broken windows;
(vii) The property is open to casual entry or trespass;
(viii) The property has a building or structure that is or appears structurally unsound or has any other condition that presents a potential hazard or danger to the safety of persons; or
(ix) Any of the conditions in subdivisions (a)(3)(A)(i) - (viii) exist and, if there is a mortgage on the property, the mortgagor does not occupy the property and has informed the mortgagee or loan servicing company in writing that the mortgagor does not intend to occupy the property in the future;

(B) “Period of delinquency” means, with respect to a parcel, the longest consecutive number of years the property taxes on that parcel are delinquent and have not been paid to a jurisdiction, and for which years the collection of property taxes for that jurisdiction is being sought in the tax sale;

(C) “Person entitled to redeem” means, with respect to a parcel, any interested person, as defined in this chapter, as of the date of the sale or the date the motion to redeem is filed;

(D) “Vacant and abandoned” with respect to real property:

(i) Means:
   (a) There is a reasonable basis to believe the property is not occupied as determined in accordance with subdivision (a)(2); or
   (b) A court has determined that the property is a risk to the health, safety, or welfare of the public or any adjoining or adjacent property owners, or has otherwise declared the property unfit for occupancy; and
(ii) Does not include:
   (a) An unoccupied building that is undergoing construction, renovation, or rehabilitation at the hands of a properly licensed contractor pursuant to a building permit; is proceeding to completion; and is in compliance with all applicable ordinances, codes, regulations, and statutes;
   (b) A building occupied on a seasonal basis that is otherwise secure;
   (c) A building that is secure, but is the subject of a probate action, action to quiet title, or other similar ownership dispute; provided, that the owners are exercising diligence in pursuit of resolution of the dispute;
   (d) A building damaged by a natural disaster and one (1) or more owners intend to repair and reoccupy the property; provided, that the owners are exercising diligence in pursuit of completion of repairs at the property in accordance with subdivision (a)(3)(D)(ii)(a); or
   (e) Any property occupied by the owner, a relative of the owner, or a tenant lawfully in possession; provided, that neither subdivision (a)(3)(A)(viii) nor subdivision (a)(3)(D)(ii)(b) applies to the property.

(b)(1) In order to redeem a parcel, the person entitled to redeem shall file a motion to such effect in the proceedings in which the parcel was sold. The motion shall describe the parcel, the date of the sale of the parcel, the date of the entry of the order confirming the sale and shall contain specific allegations establishing the right of the person to redeem the parcel. Prior to the filing of the motion to redeem, the movant shall pay to the clerk of the court an amount equal to the total amount of delinquent taxes, penalty, interest, court costs, and interest on the entire purchase price paid by the
purchaser of the parcel. The interest shall be at the rate of twelve percent (12%) per annum, which shall begin to accrue on the date the purchaser pays the purchase price to the clerk and continuing until the motion to redeem is filed. If the entire amount owing is not timely paid to the clerk or if the motion to redeem is not timely filed, the redemption shall fail.

(2) In any motion to enforce a right of redemption brought by a transferee against a tax sale purchaser or other interested party:

(A) The tax sale purchaser or other interested party in whom the right of redemption originally vested must be served with a copy of the motion to redeem;

(B) The motion to redeem must be denied on the objection or response to the motion to redeem by the tax sale purchaser or any other interested party if it appears that the transferee is engaged in speculation or profiteering with respect to such right of redemption;

(C) Such speculation and profiteering is presumed if it appears that the transfer of the right of redemption was made for consideration in an amount less than the purchase price paid by the tax sale purchaser at the tax sale minus the amount the debtor would have been required to pay to redeem the property under this chapter; and

(D) If a motion to redeem by a transferee is denied under this subdivision (b)(2) based on a finding by the court of such speculation and profiteering, the court may award reasonable attorney’s fees to the tax sale purchaser or any other interested party challenging the motion to redeem.

(3) Subdivision (b)(2) is intended to:

(A) Further the public policies of this state of protecting the interests of owners of real property subject to debt, protecting the integrity of the tax sale process, providing reliable tax sale titles to purchasers, and prohibiting the profiteering and speculation in rights of redemption; and

(B) Be remedial and construed to apply to any existing rights of redemption.

(c) Upon the filing of the motion to redeem and the payment of the required amount, the clerk shall within ten (10) days send a notice of the filing of the redemption motion to the purchaser and all persons entitled to redeem the parcel. The notice of redemption shall state the amount paid at the time of the filing of the motion and refer the persons to this section.

(d) The purchaser may within thirty (30) days after the mailing of the notice of redemption, file a response seeking additional funds to be paid by the proposed redeemer to compensate the purchaser for amounts expended by the purchaser for the purposes set out in subsection (e). The response shall specifically set out the basis for each category of additional funds claimed. The response may also allege that the motion to redeem was not properly or timely filed. If no response is timely filed, the court shall determine whether the redemption has been properly made, and if so, shall cause an order to be entered requiring the proposed redeemer to pay additional interest at the rate set forth in subsection (b), accruing from the date the motion to redeem was filed until the date of such payment.

(e) Additional sums to be paid by the proposed redeemer at the demand of the purchaser, shall include the following:

(1) Additional ad valorem taxes, penalty, interest and court costs paid by the purchaser secured by a lien against the parcel, plus interest thereon at the rate set forth in subsection (b), accruing from the date of payment of the additional taxes by the purchaser until the date of payment by the proposed
redeemer pursuant to order of the court;

(2) Reasonable payments made by the purchaser for insurance on the parcel and any improvements thereon;

(3) Reasonable cost paid by the purchaser to avoid permissive waste of the parcel;

(4) Reasonable expenses paid by the purchaser as a result of a judicial or administrative order or other official notice requiring the purchaser to immediately bring the property into compliance with applicable building code or zoning regulations;

(5) Reasonable payments by the purchaser for homeowner’s association dues or obligations resulting from covenants running with the land which are secured by a lien against the parcel; and

(6) Additional interest at the rate set out in subsection (b), accruing from the date the motion to redeem was filed until the date the purchaser’s response was filed. If the court determines that the purchaser has not delayed consideration of the motion to redeem and that any response filed by the purchaser for additional funds was based on a reasonable expectation that the expenditures of the purchaser were reimbursable pursuant to this section, then the court may require the proposed redeemer to also pay additional interest at the same rate, accruing from the date the purchaser’s response was filed until the date of such payment.

(f) Any additional funds ordered to be paid by the proposed redeemer under this section shall be paid to the clerk prior to the later of the following dates:

(1) The date of the expiration of the redemption period; or

(2) Thirty (30) days after the entry of the order allowing additional funds.

(g) If the proposed redeemer timely pays the full amount of any additional funds ordered by the court, the court shall declare that the property has been redeemed.

(h) If the proposed redeemer fails to timely pay the full amount of any additional funds ordered by the court, the redemption shall fail and any funds paid by the proposed redeemer shall be refunded to him less the clerk’s fee and any other court costs.

(i) In the event a person tenders the full amount owing in the proceeding at a time after the date of sale and prior to the entry of an order confirming the sale, the person shall also pay interest computed as established by subsection (b) on the total purchase price paid by the purchaser.

(j) The court in which the proceedings are pending may order that any proposed redeemer shall also pay to the clerk the amount necessary to record any orders of the court in the office of the register of deeds. Such payment may be required to be paid upon the filing of the motion to redeem or upon determining whether any additional funds are to be allowed.

(k) Upon any order pertaining to redemption becoming final, the clerk shall make such disbursements as are provided in the order.

(l) In the event the court directs the delinquent tax attorney or an attorney ad litem to participate in the redemption portion of the proceedings as an assistance to the court, the court may allow a reasonable attorneys fee to be paid by either the movant or the purchaser as directed by the court.

(m) In the event all parties to the action waive their right to appeal all issues in the cause, the clerk shall immediately disburse all amounts owing.

(n) Upon entry of an order of the court declaring that the redemption is complete, title to the parcel shall be divested out of the purchaser, and the clerk
shall promptly refund the purchase money and pay all sums due to the purchaser under this section. The interests of the taxpayer and other interested parties, or their successors in interest, shall be restored to that state which existed as of the date of entry of the order confirming the sale. Any lienholder who redeems the parcel may thereafter proceed to foreclose upon the parcel or otherwise enforce such lien.

(o) During the redemption period, the purchaser shall have no obligation to purchase insurance on the parcel and shall not be liable to a person redeeming the parcel for damages to the parcel during such redemption period unless such damages are directly caused by intentional acts of the purchaser. This subsection (o) is intended to be procedural and remedial in application and is made applicable retroactively to the extent allowed by law.

(p) During the redemption period and thereafter, a taxing entity which has purchased a parcel pursuant to § 67-5-2501 shall have no obligation to preserve the value of the parcel. This subsection (p) is intended to be procedural and remedial in application and is made applicable retroactively to the extent allowed by law.


Section 21-1-205 is not applicable to property tax proceedings, tax liens, or the enforcement of such tax liens. This section is intended to be procedural and remedial in its application and is made applicable retroactively to the extent allowed by law.

67-5-2801. Industrial and commercial personal property taxes, penalties, interest, attorney fees and costs — Waiver of enforcement and collection.

(a) The trustee or collector may request the delinquent tax attorney to seek court approval in order to waive the enforcement and collection of all, but not a portion of, industrial and commercial personal property taxes, penalties, interest, attorney fees and costs. All of the following must be determined and attested to by the trustee or collector before a court may approve a waiver:

1. The taxpayer has ceased all business operations;
2. No personal property subject to the tax can be found; and
3. Neither fraud nor an intention to avoid payment of the taxes on the part of the taxpayer caused the circumstances giving rise to such waiver.

(b) In order to waive the enforcement and collection of taxes, including penalties, interest, or attorney fees and costs, imposed on public utility personal property or personal property of modern market telecommunications providers, the trustee or collector must first confirm with the comptroller of the treasury that such taxpayer’s local assessment only includes personal property and does not include any real property. If such taxpayer is still operating, then no waiver may be requested or approved even if the local assessment only includes personal property and no personal property can be found in the trustee’s or the collector’s jurisdiction. If such taxpayer has ceased all operations and the local assessment does not include any real property, then the trustee or the collector may request a waiver in accordance with subdivisions (a)(1)-(3).

(c) The trustee or collector is required to submit a report to the chief executive officer of the local government and the county assessor of all waivers
approved by the court when no delinquent tax lawsuit has been filed. The report shall contain the taxpayer's name and amount of taxes, penalties, interest, attorney fees, and costs waived. The waivers approved by the court under this subsection (c) are to be included and written as a credit in the monthly settlement and annual statement in accordance with § 67-5-1903.

(d) With respect to delinquent personal property taxes being waived under this section, for which the delinquent lawsuit has been filed, the court having jurisdiction of the delinquent tax lawsuit may, upon motion by the delinquent tax attorney and a finding that the factors outlined in subdivisions (a)(1)-(3) or subsection (b) exist, order the waiver of enforcement and collection of all, but not a portion of, such personal property taxes, penalties, interest, attorney fees and costs.

67-6-102. Chapter definitions — Definitions applicable for taxation of charges for mobile telecommunications services. [Effective until July 1, 2021. See the version effective on July 1, 2021.]

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

(1) “Advertising agency” means a business, more than eighty percent (80%) of whose gross receipts in the previous taxable year were, or in the first taxable year are reasonably projected to be, from charges for advertising services. For purposes of this definition, “gross receipts” does not include charges for printing, imprinting, reproduction, publishing of tangible personal property or photography to the extent that:

(A) The activity was not performed by the business itself but was contracted out to another business; and

(B) The charges for the activity were passed through the business to its client;

(2) “Advertising materials” means tangible personal property or its digital equivalent produced to advertise a product, service, idea, concept, issue, place or thing, including, but not limited to, brochures, catalogs and point-of-purchase materials, but not including preliminary artwork, and not including original sound recordings or video recordings produced by recording studios, television studios, video production studios or by or for advertising agencies, or masters produced from the original recordings, regardless of whether the original recordings or masters are produced in a tangible medium or a digital equivalent;

(3)(A) “Advertising services” means services rendered by an advertising agency to promote a product, service, idea, concept, issue, place or thing, including services rendered to design and produce advertising materials prior to the acceptance of the advertising materials for reproduction or publication, including, but not limited to:

(i) Advice and counseling regarding marketing and advertising;

(ii) Strategic planning for marketing and advertising;

(iii) Consumer research;

(iv) Account planning;

(v) Public relations;

(vi) Design;

(vii) Layout;

(viii) Preparation of preliminary art;
(ix) Creative consultation, coordination, media placement, direction and supervision;

(x) Script and copywriting;

(xi) Editing;

(xii) Supervision of the production of advertising materials, including quality control;

(xiii) Direct mail; and

(xiv) Account management services;

(B) “Advertising services” does not include the production of final artwork or advertising materials;

(4) “Agricultural purposes” means operating tractors or other farm equipment used exclusively, whether for hire or not, in plowing, planting, harvesting, raising or processing of farm products at a farm, nursery or greenhouse, operating farm irrigation systems, or operating motor vehicles or other logging equipment used exclusively, whether for hire or not, in cutting and harvesting trees, when the vehicles or equipment are not operated upon the public highways of this state;

(5) “Aircraft” has the same meaning used in § 42-1-101;

(6) “Alcoholic beverages” means beverages that are suitable for human consumption and contain one-half of one percent (0.5%) or more of alcohol by volume;

(7) “Ancillary services” means services that are associated with, or incidental to, the provision of telecommunications services, including, but not limited to, detailed telecommunications billing service, directory assistance service, vertical service, and voice mail service. As used in this subdivision (7):

(A) “Conference bridging service” means an ancillary service that links two (2) or more participants of an audio or video conference call, and may include the provision of a telephone number. Conference bridging service does not include the telecommunications services used to reach the conference bridge;

(B) “Detailed telecommunications billing service” means an ancillary service of separately stating information pertaining to individual calls on a customer’s billing statement;

(C) “Directory assistance” means an ancillary service of providing telephone number information, and address information;

(D) “Vertical service” means an ancillary service that is offered in connection with one (1) or more telecommunications services, that offers advanced calling features that allow customers to identify callers and to manage multiple calls and call connections, including conference bridging services; and

(E) “Voice mail service” means an ancillary service that enables the customer to store, send or receive recorded messages. Voice mail service does not include any vertical services that the customer may be required to have in order to utilize the voice mail service;

(8)(A) “Business” means any activity engaged in by any person, or caused to be engaged in by such person, with the object of gain, benefit, or advantage, either direct or indirect;

(B) “Business” does not include occasional and isolated sales or transactions by a person not regularly engaged in business, or the occasional and isolated sale at retail or use of services sold by or purchased from a
person not regularly engaged in business as a vendor of taxable services, or from one who is such a vendor but is not normally a vendor with respect to the services sold or purchased in such occasional or isolated transaction. “Business” does not include those occasional or isolated sales or transactions by such a person involving mobile homes or house trailers, as defined by § 55-4-111, when the consummation of such exclusively involves the assumption by the purchaser of a previously existing finance contract and no other consideration is received by the seller. “Business” does not include any sales or use tax of tangible personal property of any type sold directly to consumers by any person, including, but not limited to, the Girl Scouts or county fairs; provided, however, that the tangible personal property is not regularly sold by the person or is regularly sold by the person only during a temporary sales period that occurs on a semiannual, or less frequent, basis, or, if sold by a volunteer fire department, only during a temporary sales period that occurs no more than four (4) times per calendar year. For charitable entities whose primary purpose is fundraising in support of a city, county, or metropolitan library system, “business” does not include sales, including online sales, that the charitable entity elects to make in lieu of two (2) semiannual temporary sales periods; provided, that the sales do not exceed three hundred thousand dollars ($300,000) per calendar year; and provided further, that the election by the charitable entity must remain in effect for no less than four (4) years. For a community foundation described in 26 U.S.C. § 170(c)(2), “business” does not include sales that the community foundation elects to make in lieu of two (2) semiannual temporary sales periods; provided, that in any calendar year, the sales shall take place during no more than two (2) auctions, which last no more than twenty-four (24) hours, in each county designated to receive charitable support from a fund or trust that comprises a component part of the community foundation, as described in 26 CFR § 1.170A-9(f)(11)(ii); (C) “Business” includes occasional and isolated sales or transactions of aircraft, vessels, or motor vehicles between corporations and their members or stockholders and also includes such transactions caused by the merger, consolidation, or reorganization of corporations. “Business” also includes occasional and isolated sales or transactions of aircraft, vessels, or motor vehicles between partnerships and the partners thereof and transfers between separate partnerships. Transfers caused by the dissolution of a partnership due solely to a partner, in a partnership composed of three (3) or more persons, voluntarily ceasing to be associated in the carrying on of business of the partnership, as provided in § 61-1-128 [repealed], is not included in “business.” “Business” shall be construed to include occasional and isolated sales or transactions by such a person involving aircraft, vessels or motor vehicles, which terms include trailers and special motor equipment sold in conjunction therewith, as defined by and required to be registered under the laws of Tennessee with an agency of this state or under the laws of the United States with an agency of the federal government, unless such sales or transactions are otherwise exempt under this chapter or are sales between persons who are married, lineal relatives or spouses of lineal relatives, or siblings. Such sales or transactions involving aircraft based in this state shall be presumed to be made and taxable in this state; and any registration reflecting such
aircraft that are so based shall constitute evidence thereof;

(9) “Candy” means a preparation of sugar, honey, or other natural or artificial sweeteners in combination with chocolate, fruits, nuts, or other ingredients or flavorings in the form of bars, drops, or pieces. Candy shall not include any preparation containing flour and shall require no refrigeration;

(10) “Certified automated system” means software certified under the Streamlined Sales and Use Tax Agreement (SSUTA) to calculate the tax imposed by each jurisdiction on a transaction, determine the amount of tax to remit to the appropriate state, and maintain a record of the transaction;

(11) “Certified service provider” means an agent certified under the Streamlined Sales and Use Tax Agreement to perform all of the seller’s sales and use tax functions, other than the seller’s obligation to remit tax on its own purchases;

(12) “Clothing” means all human wearing apparel suitable for general use;

(13) “Clothing accessories or equipment” means incidental items worn on the person or in conjunction with clothing;

(14) “Coin-operated telephone service” means a telecommunications service paid for by inserting money into a telephone accepting direct deposits of money to operate;

(15) “Commissioner” means and includes the commissioner of revenue or the commissioner’s duly authorized assistants;

(16) “Common carrier” means every person holding a certificate of public convenience and necessity as a common carrier from the interstate commerce commission or the United States department of transportation or its predecessor agency of the federal government;

(17) “Computer” means an electronic device that accepts information in digital or similar form and manipulates it for a result based on a sequence of instructions;

(18) “Computer software” means a set of coded instructions designed to cause a computer or automatic data processing equipment to perform a task;

(19) “Computer software maintenance contract” means a contract that obligates a person to provide a customer with future updates or upgrades to computer software, support services with respect to computer software, or both. However, “computer software maintenance contract” does not include telephone or other support services that are optional and are sold separately and invoiced separately and do not include any transfer, repair or maintenance of computer software on the part of the seller;

(20) “Construction machinery” means machinery designed for and used exclusively in the preparation for, assembly, fabrication, and finishing of permanent improvements to real estate;

(21) “Cost price” means the actual cost of articles of tangible personal property without any deductions therefrom on account of the cost of materials used, labor, or service costs, transportation charges, or any expenses whatsoever;

(22) “Data center” means a building or buildings, either newly constructed, expanded, or remodeled, housing high-tech computer systems and related equipment;

(23) “Dealer” means every person, as used in this chapter, including Model 1, Model 2, and Model 3 sellers, where the context requires, who:

(A) Manufactures or produces tangible personal property for sale at retail, for use, consumption, distribution, or for storage to be used or
consumed in this state;

(B) Imports, or causes to be imported, tangible personal property from any state or foreign country, for sale at retail, for use, consumption, distribution, or for storage to be used or consumed in this state;

(C) Sells at retail, or who offers for sale at retail, or who has in such person’s possession for sale at retail, or for use, consumption, distribution, or storage to be used or consumed in this state, tangible personal property as defined in this section;

(D) Has sold at retail, used, consumed, distributed, or stored for use or consumption in this state, tangible personal property and who cannot prove that the tax levied by this chapter has been paid on the sale at retail, the use, the consumption, the distribution, or the storage of the tangible personal property;

(E) Leases or rents tangible personal property, as defined in this chapter, for a consideration, permitting the use or possession of the property without transferring title to such property;

(F) Is the lessee or renter of tangible personal property, as defined in this chapter, and who pays to the owner of such property a consideration for the use or possession of such property without acquiring title to such property;

(G) Maintains or has within this state, directly or by a subsidiary, an office, distributing house, sales room or house, warehouse, or other place of business;

(H) Furnishes any of the things or services taxable under this chapter;

(I) Has any representative, agent, salesperson, canvasser or solicitor operating in this state, or any person who serves in such capacity, for the purpose of making sales or the taking of orders for sales, regardless of whether such representative, agent, salesperson, canvasser or solicitor is located here permanently or temporarily, and regardless of whether an established place of business is maintained in this state;

(J) Engages in the regular or systematic solicitation of a consumer market in this state by the distribution of catalogs, periodicals, advertising fliers, or other advertising, or by means of print, radio or television media, by telegraphy, telephone, computer data base, cable, optic, microwave, or other communication system;

(K) Uses tangible personal property, whether the title to such property is in such person or some other entity, and whether or not such other entity is required to pay a sales or use tax, in the performance of such person’s contract or to fulfill such person’s contract obligations, unless such property has previously been subjected to a sales or use tax, and the tax due thereon has been paid;

(L) Sells at retail or charges admission, dues or fees as defined in this chapter; or

(M) Rents or provides space to a dealer without a permanent location in this state or to dealers who are registered for sales tax at other locations in this state, but who are making sales at this location on a less than permanent basis; provided, that “dealer” does not include flea market operators;

(24) “Delivered electronically” means delivered to the purchaser by means other than tangible storage media;

(25)(A) “Delivery charges” means charges by the seller of personal property or services for preparation and delivery to a location designated by the
purchaser of personal property or services, including, but not limited to, transportation, shipping, postage, handling, crating, and packing. Delivery charges shall not include delivery for direct mail when the charges are separately stated on an invoice or similar billing document given to the purchaser. If the shipment includes exempt property and taxable property, the seller should allocate the delivery charge by using:

(i) A percentage based on the total sales price of the taxable property compared to the sales prices of all property in the shipment; or

(ii) A percentage based on the total weight of the taxable property compared to the total weight of all property in the shipment;

(B) The seller shall tax the percentage of the delivery charge allocated to the taxable property but does not have to tax the percentage allocated to the exempt property;

(26) “Dietary supplement” means any product, other than tobacco, intended to supplement the diet that:

(A) Contains one (1) or more of the following dietary ingredients:

(i) A vitamin;
(ii) A mineral;
(iii) An herb or other botanical;
(iv) An amino acid;
(v) A dietary substance for use by humans to supplement the diet by increasing the total dietary intake; or

(vi) A concentrate, metabolite, constituent, extract, or combination of any ingredient described in subdivisions (26)(A)(i)-(v);

(B) Is intended for ingestion in tablet, capsule, powder, softgel, gelcap, or liquid form, or if not intended for ingestion in such a form, is not represented as conventional food and is not represented for use as a sole item of a meal or of the diet; and

(C) Is required to be labeled as a dietary supplement, identifiable by the supplement facts box found on the label and as required pursuant to 21 CFR 101.36;

(27) “Digital audio works” means works that result from the fixation of a series of musical, spoken, or other sounds, that are transferred electronically, including prerecorded or live songs, music, readings of books or other written materials, speeches, ringtones, or other sound recording. For purposes of this subdivision (27), “ringtones” means digitized sound files that are downloaded onto a device and that may be used to alert the customer with respect to a communication. “Digital audio works” does not include audio greeting cards sent by electronic mail;

(28) “Digital audio-visual works” means a series of related images that, when shown in succession, impart an impression of motion, together with accompanying sounds, if any, that are transferred electronically. “Digital audio-visual works” includes motion pictures, musical videos, news and entertainment programs, and live events. “Digital audio-visual works” does not include video greeting cards sent by electronic mail or video or electronic games;

(29) “Digital books” means works that are generally recognized in the ordinary and usual sense as “books” that are transferred electronically, including works of fiction and nonfiction and short stories. “Digital books” does not include newspapers, magazines, periodicals, chat room discussions or weblogs;
(30) “Direct mail” means printed material delivered or distributed by United States mail or other delivery service to a mass audience or to addressees on a mailing list provided by the purchaser or at the direction of the purchaser when the cost of the items are not billed directly to the recipients. “Direct mail” includes tangible personal property supplied directly or indirectly by the purchaser to the direct mail seller for inclusion in the package containing the printed material. “Direct mail” does not include multiple items of printed material delivered to a single address;

(31) “Direct pay permit” means special written permission granted to a taxpayer by the commissioner to make all purchases free of the sales or use tax and report all sales or use tax due directly to the department;

(32) “Direct pay permit holder” means a taxpayer who holds a direct pay permit;

(33) “Drug” means a compound, substance or preparation, and any component of a compound, substance or preparation, other than food and food ingredients, dietary supplements or alcoholic beverages:

(A) Recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, and supplement to any of them;

(B) Intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease; or

(C) Intended to affect the structure or any function of the body;

(34)(A) “Durable medical equipment” means equipment that:

(i) Can withstand repeated use;

(ii) Is primarily and customarily used to serve a medical purpose;

(iii) Generally is not useful to a person in the absence of illness or injury; and

(iv) Is not worn in or on the body;

(B) “Durable medical equipment” includes repair and replacement parts for the equipment; provided, however, that the repair and replacement parts shall not include parts, components, or attachments that are for single patient use. “Durable medical equipment” does not include mobility enhancing equipment;

(35) “Electronic” means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities;

(36) “Energy resource recovery facility” means a facility for the production of energy in the form of steam or chilled water from the controlled burning of combustible materials, including, but not limited to, coal, fuel oil, or natural gas, where such energy is to be used in a system for heating and cooling five (5) or more separate buildings;

(37) “Fabricating or processing tangible personal property for resale” means only tangible personal property that is fabricated or processed for resale and ultimate use or consumption off the premises of the one engaging in such fabricating or processing, or hot mix asphalt and crushed stone fabricated by a contractor for use by the contractor in highway or road construction projects funded by tax revenues. “Fabricating or processing tangible personal property for resale” shall be deemed to include providing fabrication and repair services to aircraft owned by nonaffiliated business entities whether commercial, governmental or foreign; provided, that the dealer performing such services qualifies for the credit allowed in § 67-4-2109(b). “Fabricating or processing tangible personal property for resale”
shall not include any other type of repair services. “Fabricating or processing tangible personal property for resale” includes the processing of photographic film into negatives and/or photographic prints for resale;

(38) “Final artwork” means tangible personal property or its digital equivalent that is suitable for use in producing advertising materials and includes, but is not limited to, photographs, illustrations, drawings, paintings, calligraphy, models and similar works that are used to produce advertising materials, but does not include preliminary artwork or original sound recordings or video recordings produced by recording studios, television studios, video production studios, or by or for advertising agencies, or masters produced from the original recordings regardless of whether the original recordings or masters are produced in a tangible medium or a digital equivalent;

(39) “Flea market” means a place of business that provides space more than two (2) times a year to two (2) or more persons for the purpose of making sales at retail of tangible personal property that, during the usual course of being displayed or offered for sale, is not stored or displayed permanently at that space. “Flea market” does not include hotels, convention centers, municipal auditoriums, municipal coliseums, or gun shows, if such gun shows are sponsored by a not-for-profit corporation;

(40) “Flea market operator” means any person who receives compensation for providing space more than two (2) times a year to two (2) or more persons for the purpose of making sales at retail of tangible personal property that, during the usual course of being displayed or offered for sale, is not stored or displayed permanently at that space. “Flea market operator” does not include a hotel, convention center, municipal auditorium, municipal coliseum, or gun show operator, if such gun shows are sponsored by a not-for-profit corporation;

(41) “Food and food ingredients” means substances, whether in liquid, concentrated, solid, frozen, dried, or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value. “Food and food ingredients” does not include alcoholic beverages, tobacco, candy, dietary supplements, or prepared food;

(42) “Grooming and hygiene products” are soaps and cleaning solutions, shampoo, toothpaste, mouthwash, antiperspirants, and suntan lotions and screens, regardless of whether the items meet the definition of over-the-counter drugs;

(43) “Gross sales” means the sum total of all retail sales of tangible personal property and all proceeds of services taxable under this chapter as defined in this section, without any deduction whatsoever of any kind or character, except as provided in this chapter;

(44) “Industrial machinery” means:

(A)(i) Machinery, apparatus and equipment with all associated parts, appurtenances and accessories, including hydraulic fluids, lubricating oils, and greases necessary for operation and maintenance, repair parts and any necessary repair or taxable installation labor therefor, that is necessary to, and primarily for, the fabrication or processing of tangible personal property for resale and consumption off the premises, or pollution control facilities primarily used for air pollution control or water pollution control, where the use of such machinery, equipment or facilities is by one who engages in such fabrication or processing as one’s
principal business or who engages in the fabrication or processing of materials into trusses, window units or door units for resale as part of the principal business of the sale of building supplies either within or without this state, or such use by a county, municipality, or water and wastewater treatment authority created by private act or pursuant to the Water and Wastewater Treatment Authority Act, compiled in title 68, chapter 221, part 6, or a contractor pursuant to a contract with the county, municipality, or water and wastewater treatment authority for use in water pollution control or sewage systems, also mining machinery, apparatus equipment and materials, with all associated parts and accessories, including repair parts and any necessary repair or installation labor, that is necessary to and primarily for:

(a) The removal, extraction or detachment of coal from land by surface, underground or other lawful methods of mining and the construction or maintenance of necessary ingress and egress from the mine;

(b) The removal, handling and replacement of overburden and spoils materials; or

(c) The reclamation of mined areas reclaimed under state or federal laws, rules or regulations;

(ii) As used in this chapter, “pollution control facilities” means any system, method, improvement, structure, device or appliance appurtenant thereto used or intended for the primary purpose of eliminating, preventing or reducing air or water pollution, or for the primary purpose of treating, pretreating, recycling or disposing of any hazardous or toxic waste, solid or liquid, when such pollutants are created as a result of fabricating or processing by one who engages in fabricating or processing as such person’s principal business activity, which, if released without such treatment, pretreatment, modification or disposal, might be harmful, detrimental or offensive to the public and the public interest;

(B) Machinery that is necessary to and primarily for remanufacturing industrial machinery as defined in subdivision (44)(A) when such utilization is by one whose principal business is that of remanufacturing industrial machinery. For the purposes of this subdivision (44)(B), “remanufacturing” means making new or different products with new or different functions from the scrap materials used to make them;

(C) Machinery utilized in the pre-press and press operations in the business of printing, including plates and cylinders, and including the component parts and fluids or chemicals necessary for the specific mechanical or chemical actions or operations of such machinery, plates and cylinders, regardless of whether or not the operations occur at the point of retail sales;

(D) Such industrial machinery necessary to and primarily for the fabrication and processing of tangible personal property for resale or used primarily for the control of air pollution or water pollution includes, but is not limited to:

(i) Machines used for generating, producing, and distributing utility services, electricity, steam, and treated or untreated water; and

(ii) Equipment used in transporting raw materials from storage to the manufacturing process, and transporting finished goods from the
end of the manufacturing process to storage;

(E)(i) Machinery used to package manufactured items, where the use of such machinery is by a person whose principal business is fabricating or processing tangible personal property for resale. Notwithstanding the principal business of the user, this exemption shall also apply where the use of such machinery at a location is to package automotive aftermarket products manufactured at other locations by the same person or by a corporation affiliated with the manufacturing corporation such that:

(a) Either corporation directly owns or controls one hundred percent (100%) of the capital stock of the other corporation; or

(b) One hundred percent (100%) of the capital stock of both corporations is directly owned or controlled by a common parent;

(ii) To “package,” as used in subdivision (44)(E)(i), refers only to the fabrication and/or installation of that packaging that will accompany the product when sold at retail;

(F) Such industrial machinery necessary to and primarily for the fabrication or processing of tangible personal property for resale and consumption off the premises or used primarily for the control of air pollution or water pollution does not include machinery, apparatus and equipment used prior to or after equipment exempted by subdivision (44)(D)(ii), and does not include equipment used for maintenance or the convenience or comfort of workers;

(G) Machinery, apparatus and equipment with all associated parts, appurtenances and accessories, including hydraulic fluids, lubricating oils and greases necessary for operation and maintenance, repair parts and any necessary repair or taxable installation labor therefor, that is necessary to, and primarily for, the fabricating or processing of prescription eyewear, where a majority of such eyewear is ultimately dispensed to patients in states other than Tennessee;

(H)(i) Material handling equipment and racking systems, used by the taxpayer directly and primarily for the storage or handling and movement of tangible personal property in a qualified, new or expanded warehouse or distribution facility, that are purchased beginning one (1) year prior to the start of the construction or expansion and ending one (1) year after the substantial completion of the construction or expansion of the facility, but in no event shall the period exceed three (3) years. “Qualified, new or expanded warehouse or distribution facility” means a new or expanded facility, that meets the requirements set out in this subdivision (44)(H), for the storage or distribution of finished tangible personal property. Such facilities shall not include a building where tangible personal property is fabricated, processed, assembled or sold over-the-counter to consumers, except for taxpayers that qualify under chapter 185 of the Public Acts of 1995, or are configuring, testing or packaging computer products. “Configuring” computer products means integrating a computer with peripheral computer products, such as a hard disk drive, additional memory or software. A qualifying facility must also be:

(a) A warehouse or distribution facility constructed in this state through an investment in excess of ten million dollars ($10,000,000) by the taxpayer, and/or a lessor to the taxpayer, over a period not exceeding three (3) years, in a newly constructed and previously
unoccupied building and/or equipment for the facility;

(b) An expansion to an existing warehouse or distribution facility, previously qualified under subdivision (44)(H)(i), through an additional investment in excess of ten million dollars ($10,000,000) by the taxpayer, and/or a lessor to the taxpayer over an additional period not exceeding three (3) years, for additions to the building and the purchase of new equipment for use in the expanded facility;

(c) A warehouse or distribution facility in this state that is purchased and either renovated or expanded through an investment in excess of ten million dollars ($10,000,000) in such purchase and renovation or expansion by the taxpayer, and/or a lessor to the taxpayer, including the purchase of new equipment for such a building, over a period not exceeding three (3) years; or

(d) An expansion to an existing warehouse or distribution facility in this state through an aggregate investment in excess of twenty million dollars ($20,000,000) by the taxpayer, and/or a lessor to the taxpayer, over a period not exceeding three (3) years, consisting of an investment in excess of ten million dollars ($10,000,000) in the renovation or expansion of an existing building and/or the purchase of new equipment for such a building, together with an investment in excess of ten million dollars ($10,000,000) in the construction of a new, previously unoccupied building and/or equipment for such a building;

(ii) A taxpayer shall qualify for the exemption afforded to material handling and racking systems under subdivision (44)(H)(i) by submitting an application to the commissioner for the exemption, together with a plan describing the investment to be made. The application and plan shall be submitted on forms prescribed by the commissioner. The plan shall demonstrate that the requirements of the law will be met. Upon approval of the exemption request and plan for investment, purchases of the equipment may be made without payment of the sales or use tax. However, if the requisite investment is not made in the time period required, or the terms of the statute are not met, the taxpayer shall be subject to assessment for any tax, penalty or interest that would otherwise have been due;

(I) Material handling equipment and racking systems used in a warehouse and distribution facility, subject to all the requirements and conditions of subdivision (44)(H), except:

(i) The required investment in excess of ten million dollars ($10,000,000) may also be made in a previously occupied facility:

(a) Through the purchase of a building, and/or the purchase of new equipment for use in the building no later than one (1) year after the purchase of the building; or

(b) Through the purchase of new equipment for use in a leased building, not qualifying under subdivision (44)(I)(i)(a), made no later than one (1) year after the date of the lease agreement; and

(ii) Any purchases exempted from tax for use in the facility described in this subdivision (44)(I) must be made no later than one (1) year after the purchase of the building under subdivision (44)(I)(i)(a), or no later than one (1) year after the date of the lease agreement under subdivision (44)(I)(i)(b);
(J) “Industrial machinery” does not include machinery, apparatus and equipment, with all associated parts, appurtenances, accessories, repair parts, and necessary repair or taxable installation labor therefor, that is used in the preparation of food for immediate retail sale;

(K) “Industrial machinery” also includes any “computer”, “computer network”, “computer software”, or “computer system”, as defined by § 39-14-601, and any peripheral devices, including, but not limited to, hardware such as printers, plotters, external disc drives, modems, and telephone units, when such items are used in the operation of a qualified data center. For purposes of this subdivision (44)(K), “industrial machinery” includes repair parts, repair or installation services, and warranty or service contracts, purchased for such items used in the operation of a qualified data center;

(L) “Industrial machinery” includes machinery, apparatus and equipment with all associated parts, appurtenances, accessories, repair parts and necessary repair or taxable installation labor therefor, that is necessary to and used primarily for the conversion of tangible personal property into taxable specified digital products for resale and consumption off the premises. “Industrial machinery” does not include machinery, apparatus or equipment, with all associated parts, appurtenances, accessories, repair parts and necessary repair or taxable installation labor therefor, that is used primarily for the storage or distribution of such specified digital products following such conversion;

(M) “Industrial machinery” also includes machinery, apparatus, and equipment with all associated parts, appurtenances, and accessories, including hydraulic fluids, lubricating oils, and greases necessary for operation and maintenance, repair parts, and any necessary repair or taxable installation labor therefor, that is necessary to, and primarily for, the purpose of research and development;

(45) “International,” as used in connection with telecommunications services, means a telecommunications service that originates or terminates in the United States, and terminates or originates outside the United States, respectively. United States includes the District of Columbia and a United States territory or possession;

(46) “Interstate,” as used in connection with telecommunications services, means a telecommunications service that originates in one (1) United States state, or a United States territory or possession, and terminates in a different United States state or a United States territory or possession;

(47) “Intrastate,” as used in connection with telecommunications services, means a telecommunications service that originates in one (1) United States state or United States territory or possession, and terminates in the same United States state or United States territory or possession;

(48) “Layaway sale” means a transaction in which property is set aside for future delivery to a customer who makes a deposit, agrees to pay the balance of the purchase price over a period of time, and, at the end of the payment period, receives the property. An order is accepted for layaway by the seller, when the seller removes the property from normal inventory or clearly identifies the property as sold to the purchaser;

(49) “Lease or rental” means any transfer of possession or control of tangible personal property for a fixed or indeterminate term for consideration. A “lease or rental” may include future options to purchase or extend;
(A) “Lease or rental” does not include:

(i) A transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments;

(ii) A transfer of possession or control of property under an agreement that requires the transfer of title upon completion of required payments and payment of an option price does not exceed the greater of one hundred dollars ($100) or one percent (1%) of the total required payments;

(iii) Providing tangible personal property along with an operator for a fixed or indeterminate period of time. A condition of this exclusion is that the operator is necessary for the equipment to perform as designed. For the purpose of this subdivision (49), an operator must do more than maintain, inspect, or set-up the tangible personal property; or

(iv) Providing a dumpster or other container for waste or debris removal for a fixed or indeterminate period of time along with the delivery and pickup of the dumpster. A condition of this exclusion is that the provider of the dumpster is exclusively responsible for delivery and pickup of the dumpster;

(B) “Lease or rental” includes agreements covering motor vehicles and trailers where the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as defined in 26 U.S.C. § 7701(h)(1);

(C) This subdivision (49) shall be used for sales and use tax purposes regardless if a transaction is characterized as a lease or rental under generally accepted accounting principles, the Internal Revenue Code (26 U.S.C.), or title 47, chapter 2A, or other federal, state or local law;

(D) This subdivision (49) shall be applied only prospectively from the date of adoption [January 1, 2008] and shall have no retroactive impact on existing leases or rentals;

(50) “Livestock and poultry feed” means and includes all grains, minerals, salts, proteins, fats, fibers and all vitamins, acids and drugs used and mixed with such ingredients as a growth stimulant, disease preventive, to stimulate feed conversion and make a complete feed;

(51) “Local tax jurisdiction” means a geographic area where the same local option tax, either county tax or a combination of county and municipal tax, applies;

(52) “Mobile telecommunications service” means the same as that term is defined in the Mobile Telecommunications Sourcing Act, Public Law 106-252 (4 U.S.C. § 124(7));

(53) “Mobility enhancing equipment” means equipment, including repair and replacement parts to the equipment, but does not include durable medical equipment that:

(A) Is primarily and customarily used to provide or increase the ability to move from one place to another and that is appropriate for use either in a home or a motor vehicle;

(B) Is not generally used by persons with normal mobility; and

(C) Does not include any motor vehicle or equipment on a motor vehicle normally provided by a motor vehicle manufacturer;

(54) “Model 1 seller” means a seller that has selected a certified service provider as its agent to perform all of the seller’s sales and use tax functions,
other than the seller's obligation to remit tax on its own purchases;

(55) “Model 2 seller” means a seller that has selected a certified automated system to perform part of its sales and use tax functions, but retains responsibility for remitting the tax;

(56) “Model 3 seller” means a seller that has sales in at least five (5) states that are members of the Streamlined Sales and Use Tax Agreement, has total annual sales revenue of at least five hundred million dollars ($500,000,000), has a proprietary system that calculates the amount of tax due each jurisdiction, and has entered into a performance agreement with the member states that establishes a tax performance standard for the seller. As used in this subdivision (56), a seller includes an affiliated group of sellers using the same proprietary system;

(57) “OEM headquarters company” means an original equipment manufacturer that is engaged in the business of manufacturing motor vehicles and qualifies to receive the credit provided in § 67-6-224, or any affiliate thereof. For purposes of this subdivision (57), “affiliate” has the same meaning as provided in § 67-4-2004;

(58) “OEM headquarters company vehicle” means any motor vehicle subject to registration in accordance with title 55 that is owned by an OEM headquarters company, whether used for sales or service training, advertising, quality control, testing, evaluation or other uses as approved by the commissioner, and, further, including motor vehicles provided by the OEM headquarters company for use by eligible employees and their eligible family members in accordance with policies established by the OEM headquarters company and approved by the commissioner;

(59)(A) “Over-the-counter-drug” means a drug that contains a label that identifies the product as a drug as required by 21 CFR 201.66. The “over-the-counter-drug” label includes:

(i) A drug facts panel; or

(ii) A statement of the active ingredients, with a list of those ingredients contained in the compound, substance or preparation;

(B) “Over-the-counter-drug” does not include grooming and hygiene products;

(60) “Permanent location” does not include any booths or space located at a flea market, antique mall, craft show, antique show, gun show, auto show or any similar type business;

(61) “Person” includes any individual, firm, co-partnership, joint venture, association, corporation, estate, trust, business trust, receiver, syndicate, any governmental agency whose services are essentially a private commercial concern, or other group or combination acting as a unit, in the plural as well as the singular number. “Person” further includes any political subdivision or governmental agency, including electric membership corporations or cooperatives, and utility districts, to the extent that such agency sells at retail, rents or furnishes any of the things or services taxable under this chapter;

(62) “Place of primary use” means the street address representative of where the customer’s use of the telecommunications service primarily occurs, which must be the residential street address or the primary business street address of the customer. In the case of mobile telecommunications service, “place of primary use” shall be within the licensed service area of the home service provider;
(63) “Preliminary artwork” means tangible personal property and digital equivalents that are produced by an advertising agency in the course of providing advertising services solely for the purpose of conveying concepts or ideas or demonstrating an idea or message to a client and includes, but is not limited to concept sketches, illustrations, drawings, paintings, models, photographs, storyboards or similar materials;

(64) “Prepaid calling service” means the right to access exclusively telecommunications services that must be paid for in advance and that enable the origination of calls using an access number or authorization code, whether manually or electronically dialed, and that is sold in predetermined units or dollars of which the number declines with use in a known amount;

(65) “Prepaid wireless calling service” means a telecommunications service that provides the right to utilize mobile wireless service, as well as other nontelecommunications services, including the download of digital products delivered electronically, content and ancillary services that must be paid for in advance that is sold in predetermined units of dollars of which the number declines with use in a known amount;

(66)(A) “Prepared food” means:
   (i) Food sold in a heated state or heated by the seller;
   (ii) Two (2) or more food ingredients mixed or combined by the seller for sale as a single item; or
   (iii) Food sold with eating utensils provided by the seller, including plates, knives, forks, spoons, glasses, cups, napkins, or straws. A plate does not include a container or packaging used to transport the food;
   (B) “Prepared food” in subdivision (66)(A)(ii) does not include food that is only cut, repackaged, or pasteurized by the seller, and eggs, fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the consumer as recommended by the food and drug administration (FDA) in chapter 3, § 401.11 of the FDA’s food code so as to prevent food borne illnesses;

(67) “Prescription” means an order, formula or recipe issued in any form of oral, written, electronic, or other means of transmission by a duly licensed practitioner authorized by the laws of this state;

(68) “Prewritten computer software” means computer software, including prewritten upgrades, that is not designed and developed by the author or other creator to the specifications of a specific purchaser. The combining of two (2) or more prewritten computer software programs or prewritten portions of computer software does not cause the combination to be other than prewritten computer software. “Prewritten computer software” includes software designed and developed by the author or other creator to the specifications of a specific purchaser when it is sold to a person other than the purchaser. Where a person modifies or enhances computer software of which the person is not the author or creator, the person shall be deemed to be the author or creator only of that person’s modifications or enhancements. “Prewritten computer software” or a prewritten portion of the computer software that is modified or enhanced to any degree, where the modification or enhancement is designed and developed to the specifications of a specific purchaser, remains prewritten computer software; provided, however, that where there is a reasonable, separately stated charge or an invoice or other statement of the price given to the purchaser for the modification or enhancement, the modification or enhancement shall not constitute prewrit-
ten computer software;

(69) “Private communication service” means a telecommunications service that entitles the customer to exclusive or priority use of a communications channel or group of channels between or among termination points, regardless of the manner in which such channel or channels are connected, and includes switching capacity, extension lines, stations, and any other associated services that are provided in connection with the use of such channel or channels;

(70)(A) “Prosthetic device” means a replacement, corrective, or supportive device including repair and replacement parts for the replacement, corrective, or supportive device worn on or in the body to:
   (i) Artificially replace a missing portion of the body;
   (ii) Prevent or correct physical deformity or malfunction; or
   (iii) Support a weak or deformed portion of the body;

(B) “Prosthetic device” does not include:
   (i) Corrective eyeglasses; or
   (ii) Contact lenses;

(71) “Protective equipment” means items for human wear, designed as protection of the wearer against injury or disease or as protection against damage or injury of other persons or property, but not suitable for general use;

(72) “Purchase price” applies to the measure subject to use tax and has the same meaning as sales price;

(73) “Qualified data center” means a data center that has made a required capital investment in excess of one hundred million dollars ($100,000,000) during an investment period not to exceed three (3) years and that creates at least fifteen (15) net new full-time employee jobs during the investment period paying at least one hundred fifty percent (150%) of the states’ average occupational wage as defined in § 67-4-2004. For purposes of this subdivision (73), “required capital investment” means an increase of a business investment in real property, tangible personal property or computer software owned or leased in the state, valued in accordance with generally accepted accounting principles. A capital investment shall be deemed to have been made as of the date of payment or the date the taxpayer enters into a legally binding commitment or contract for purchase or construction. For purposes of this subdivision (73), “full-time employee job” means a permanent, rather than seasonal or part-time employment position for at least twelve (12) consecutive months to a person for at least thirty-seven and one-half (37 ½) hours per week with minimum health care, as described in title 56, chapter 7, part 22. The three-year period for making the required capital investment provided for in this subdivision (73) may be extended by the commissioner of economic and community development for a reasonable period, not to exceed four (4) years, for good cause shown. For purposes of this subdivision (73), “good cause” means a determination by the commissioner of economic and community development that the capital investment is a result of the exemption for industrial machinery used by a qualified data center;

(74) “Rain check” means the seller allows a customer to purchase an item at a certain price at a later time, because the particular item was out of stock;

(75)(A) “Resale” means a subsequent, bona fide sale of the property, services, or taxable item by the purchaser. “Sale for resale” means the sale
(B)(i) “Sale for resale” does not include a sale of tangible personal property or software to a dealer for use in the business of selling services. Property used in the business of selling services includes, but is not limited to, property that is regularly furnished to purchasers of the service without separate charge. A dealer that sells services shall be considered the end user and consumer of property used in selling, performing, or furnishing such services. However, “sale for resale” does include the following items in the circumstances described:

(a) Repair parts or other property sold to a dealer if such property is subsequently transferred to the customer in conjunction with the dealer’s performance of repair services, regardless of whether the dealer makes a separately stated charge for such property;

(b) Installation parts or other property sold to a dealer if such property is subsequently transferred to the customer in conjunction with the installation of property that remains tangible personal property following such installation, regardless of whether the dealer makes a separately stated charge for such property;

(c) Mobile telephones and similar devices sold to a dealer if such property is subsequently transferred to the customer in conjunction with the sale of commercial mobile radio services (CMRS), regardless of whether the dealer makes a separately stated charge for such property; and

(d) Food or beverages sold to a hotel, motel, inn or other dealer that provides lodging accommodations if such food or beverages are subsequently transferred to the customer in conjunction with the dealer’s sale of lodging accommodations to the customer, regardless of whether the dealer makes a separately stated charge for such property;

(ii) “Sale for resale” does not include a sale of services to a dealer for use in the business of selling, leasing, or renting tangible personal property or computer software. Services used in the business of selling, leasing, or renting tangible personal property include, but are not limited to, services such as cleaning, maintaining, or repairing property that is held as inventory for sale, lease, or rental. A dealer that sells, leases, or rents tangible personal property or computer software shall be considered the end user and consumer of services used in conducting such business;

(iii) Nothing in this subdivision (75) shall be construed as amending or otherwise effecting the exemption provided in § 67-6-392;

(76) “Retail sale” or “sale at retail” means any sale, lease, or rental for any purpose other than for resale, sublease, or subrent;

(77) “Retailer” means and includes every person engaged in the business of making sales at retail, or for distribution, use, consumption, storage to be used or consumed in this state or furnishing any of the things or services taxable under this chapter;

(78)(A) “Sale” means any transfer of title or possession, or both, exchange, barter, lease or rental, conditional or otherwise, in any manner or by any means whatsoever of tangible personal property for a consideration, and includes the fabrication of tangible personal property for consumers who
furnish, either directly or indirectly, the materials used in fabrication work, and the furnishing, repairing or serving for a consideration of any tangible personal property consumed on the premises of the person furnishing, preparing or serving such tangible personal property;

(B) A transaction whereby the possession of property is transferred but the seller retains title as security for the payment of the price shall be deemed a sale; provided, that where title to property is taken by an industrial development corporation, within the meaning of title 7, chapter 53, but the property is leased to a taxpayer, the transaction shall be regarded, for purposes of this chapter, as a sale to and purchase by the industrial development corporation followed by a lease, regardless of whether the lessee has an option to purchase any or all of the property from the industrial development corporation;

(C) “Sale” includes the furnishing of any of the things or services taxable under this chapter;

(D) “Sale” includes the sale, gifts in connection with valuable contributions, exchange or other disposition of admission, dues or fees to membership sports and recreation clubs, places of amusement or recreational or athletic events or for the privilege of having access to or the use of amusement, recreational, athletic or entertainment facilities. Such establishments or facilities include, but are not limited to, the amusement and recreational facilities and motion picture theaters described in the standard industrial classification index prepared by the bureau of the budget of the federal government;

(E) “Sale” includes the renting or providing of space to a dealer or vendor without a permanent location in this state or to persons who are registered for sales tax at other locations in this state but who are making sales at this location on a less than permanent basis;

(F) “Sale” includes the processing of photographic film into negatives and/or photographic prints for resale;

(G) “Sale” includes charges for admission, dues or fees that constitute a sale under this subdivision (78), except tickets for admission sold to a Tennessee dealer for resale upon presentation of a resale certificate. Dealers registered with the state for sales tax purposes may purchase tickets for resale without payment of tax upon presentation to the vendor of a valid certificate of resale;

(H) “Sale” includes all transactions that the commissioner, upon investigation, finds to be in lieu of sales;

(I) “Sale” includes a transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments;

(J) “Sale” includes a transfer of possession or control of property under an agreement that requires the transfer of title upon completion of required payments and payment of an option price that does not exceed the greater of one hundred dollars ($100) or one percent (1%) of the total required payments; and

(K) “Sale” includes any transfer of title or possession, or both, lease or licensing, in any manner or by any means whatsoever of computer software for consideration, and includes the creation of computer software on the premises of the consumer and any programming, transferring or loading of computer software into a computer;
(79)(A) “Sales price” applies to the measure subject to sales tax and means the total amount of consideration, including cash, credit, property, and services, for which personal property or services are sold, leased, or rented, valued in money, whether received in money or otherwise, without any deduction for the following:

(i) The seller’s cost of the property sold;
(ii) The cost of materials used, labor or service cost, interest, losses, all costs of transportation to the seller, all taxes imposed on the seller, and any other expense of the seller;
(iii) Charges by the seller for any services necessary to complete the sale, other than delivery and installation charges;
(iv) Delivery charges;
(v) Installation charges; and
(vi) The value of exempt personal property given to the purchaser where taxable and exempt personal property have been bundled together and sold by the seller as a single product or piece of merchandise;

(B) “Sales price” does not include:

(i) Discounts, including cash, term, or coupons that are not reimbursed by a third party that are allowed by a seller and taken by a purchaser on a sale;
(ii) Interest, financing, and carrying charges from credit extended on the sale of personal property or services, if the amount is separately stated on the invoice, bill of sale or similar document given to the purchaser;
(iii) Any taxes legally imposed directly on the consumer that are separately stated on the invoice, bill of sale or similar document given to the purchaser; and
(iv) Credit for any trade-in, as determined by § 67-6-510, that is separately stated on an invoice or similar billing document given to the purchaser;

(C) “Sales price” includes consideration received by the seller from third parties, if:

(i) The seller actually receives consideration from a party other than the purchaser, and the consideration is directly related to a price reduction or discount on the sale;
(ii) The seller has an obligation to pass the price reduction or discount through to the purchaser;
(iii) The amount of the consideration attributable to the sale is fixed and determinable by the seller at the time of the sale of the item to the purchaser; and
(iv) One of the following criteria is met:

(a) The purchaser presents a coupon, certificate or other documentation to the seller to claim a price reduction or discount, where the coupon, certificate or documentation is authorized, distributed or granted by a third party, with the understanding that the third party will reimburse any seller to whom the coupon, certificate or documentation is presented;
(b) The purchaser identifies itself to the seller as a member of a group or organization entitled to a price reduction or discount. A preferred customer card that is available to any patron does not constitute membership in such a group; or
(c) The price reduction or discount is identified as a third-party price reduction or discount on the invoice received by the purchaser, or on a coupon, certificate or other documentation presented by the purchaser;

(80) “School art supplies” means an item commonly used by a student in a course of study for artwork. For purposes of this chapter, the following is an all-inclusive list of “school art supplies”:

(A) Clay and glazes;
(B) Paintbrushes for artwork;
(C) Paints, acrylic, tempera, and oil;
(D) Sketch and drawing pads; and
(E) Watercolors;

(81) “School computer supplies” means an item commonly used by a student in a course of study in which a computer is used. For purposes of this chapter, the following is an all-inclusive list of “school computer supplies”:

(A) Computer printers;
(B) Computer storage media, diskettes, compact disks;
(C) Handheld electronic schedulers, except devices that are cellular phones;
(D) Personal digital assistants, except devices that are cellular phones; and
(E) Printer supplies for computers, printer paper, printer ink;

(82) “School instructional materials” means written material commonly used by a student in a course of study as a reference and to learn the subject being taught. For purposes of this chapter, the following is an all-inclusive list of “school instructional materials”:

(A) Reference books;
(B) Reference maps and globes;
(C) Textbooks; and
(D) Workbooks;

(83) “School supplies” means an item used by a student in a course of study. For purposes of this chapter, the following is an all-inclusive list of “school supplies”:

(A) Binders;
(B) Blackboard chalk;
(C) Book bags;
(D) Calculators;
(E) Cellophane tape;
(F) Compasses;
(G) Composition books;
(H) Crayons;
(I) Erasers;
(J) Folders, expandable, pocket, plastic and manila;
(K) Glue, paste, and paste sticks;
(L) Highlighters;
(M) Index cards;
(N) Index card boxes;
(O) Legal pads;
(P) Lunch boxes;
(Q) Markers;
(R) Notebooks;
(S) Paper, loose leaf ruled notebook paper, copy paper, graph paper, tracing paper, manila paper, colored paper, poster board, and construction paper;
(T) Pencil boxes and other school supply boxes;
(U) Pencil sharpeners;
(V) Pencils;
(W) Pens;
(X) Protractors;
(Y) Rulers;
(Z) Scissors; and
(AA) Writing tablets;

(84) “Service address” means the location of the telecommunications equipment to which a customer’s call is charged and from which the call originates or terminates, regardless of where the call is billed or paid. In the event this may not be known, service address means the origination point of the signal of the telecommunication service first identified by either the seller’s telecommunication system or in information received by the seller from its service provider, where the system used to transport the signal is not that of the seller. In the event that neither the location of the telecommunications equipment nor the origination point of the signal are known, service address means the location of the customer’s place of primary use;

(85) “Software” means computer software;

(86) “Specified digital products” means electronically transferred digital audio-visual works, digital audio works and digital books. For purposes of this subdivision (86), “electronically transferred” means obtained by the purchaser by means other than tangible storage media;

(87) “Sport or recreational equipment” means items designed for human use and worn in conjunction with an athletic or recreational activity that are not suitable for general use;

(88) “Storage” means and includes any keeping or retention in this state of tangible personal property for use or consumption in this state, or for any purpose other than sale at retail in the regular course of business; provided, that temporary storage pending shipping or mailing of tangible personal property to nonresidents of Tennessee shall not constitute a taxable use in Tennessee;

(89)(A) “Tangible personal property” means personal property that can be seen, weighed, measured, felt, or touched, or that is in any other manner perceptible to the senses. “Tangible personal property” includes electricity, water, gas, steam, and prewritten computer software;

(B) “Tangible personal property” does not include signals broadcast over the airwaves;

(C) “Tangible personal property” does not include fiber-optic cable after it has become attached to a utility pole, building, or other structure or installed underground. Such fiber-optic cable is deemed realty for purposes of this chapter upon installation;

(90)(A) “Telecommunications service” means the electronic transmission, conveyance, or routing of voice, data, audio, video, or any other information or signals to a point, or between or among points. “Telecommunications service” includes such transmission, conveyance, or routing in which computer processing applications are used to act on the form, code or
protocol of the content for purposes of transmission, conveyance or routing, without regard to whether such service is referred to as voice over internet protocol services or is classified by the federal communications commission as enhanced or value added;

(B) “Telecommunications service” does not include:

(i) Data processing and information services that allow data to be generated, acquired, stored, processed, or retrieved and delivered by electronic transmission to a purchaser, where such purchaser’s primary purpose for the underlying transaction is the processed data or information;

(ii) Installation or maintenance of wiring or equipment on a customer’s premises;

(iii) Tangible personal property;

(iv) Advertising including, but not limited to, directory advertising;

(v) Billing and collection services provided to third parties;

(vi) Internet access service;

(vii) Radio and television audio and video programming services, regardless of the medium, including the furnishing of transmission, conveyance and routing of such services by the programming service provider. Radio and television audio and video programming services shall include, but not be limited to, cable service (47 U.S.C. § 522(6)), and audio and video programming services delivered by commercial mobile radio service providers, as defined in 47 CFR 20.3;

(viii) Ancillary services; or

(ix) Digital products delivered electronically, including, but not limited to, computer software, music, video, reading materials or ringtones;

(91) “Textbook” means a printed book that contains systematically organized educational information that covers the primary objectives of a course of study. A textbook may contain stories and excerpts of popular fiction and nonfiction writings, but does not include a book primarily published and distributed for sale to the general public. The term “textbook” does not include a computer or computer software;

(92) “Time-share estate” means an ownership or leasehold estate in property devoted to a time-share fee, tenants in common, time span ownership, interval ownership, and a time-share lease;

(93) “Tobacco” means cigarettes, cigars, chewing or pipe tobacco, or any other item that contains tobacco;

(94)(A) “Use” means and includes the exercise of any right or power over tangible personal property incident to the ownership thereof, except that it does not include the sale at retail of that property in the regular course of business;

(B) “Use” means the coming to rest in Tennessee of catalogues, advertising fliers, or other advertising publications distributed to residents of Tennessee in interstate commerce; provided, that the labeling, temporary storage, and other handling in connection with mailing or shipping of the catalogues, advertising fliers and other advertising publications in interstate commerce to nonresidents of Tennessee shall not constitute a taxable use in Tennessee; and

(C) “Use” also means and includes the consumption of any of the services and amusements taxable under this chapter;

(95) “Use tax” includes the “use,” “consumption,” “distribution” and “stor-
“Age” as defined in this section;

(96) “Video game digital product” means the right to access and use computer software that facilitates human interaction with a user interface to generate visual feedback for amusement purposes, when possession of the computer software is maintained by the seller or a third party, regardless of whether the charge for the service is on a per use, per user, per license, subscription, or some other basis;

(97)(A) “Video programming services” means programming provided by or generally considered comparable to programming provided by a television broadcast station and shall include cable television services sold by a provider authorized pursuant to title 7, chapter 59, wireless cable television services (multipoint distribution service/multichannel multipoint distribution service) and video services provided through wireline facilities located at least in part in the public rights-of-way without regard to delivery technology, including internet protocol technology;

(B) “Video programming services” does not include any of the following:

(i) Digital products transferred electronically, including, but not limited to, software, ringtones, and reading materials such as books, magazines, and newspapers;

(ii) Audio and video programming services provided by a commercial mobile service provider as defined in 47 U.S.C. § 332(d);

(iii) Audio and video programming services provided as part of, or incidental to, internet access service, such as, but not limited to, video capable email; provided, that the services are not generally considered comparable to programming provided by a television broadcast station; and

(iv) Direct-to-home satellite television programming services;

(98) “Workbook” means a printed booklet that contains problems and exercises in which a student may directly write answers or responses to the problems and exercises. The term “workbook” does not include a computer or computer software.

67-6-102. Chapter definitions — Definitions applicable for taxation of charges for mobile telecommunications services. [Effective on July 1, 2021. See the version effective until July 1, 2021.]

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

(1) “Advertising agency” means a business, more than eighty percent (80%) of whose gross receipts in the previous taxable year were, or in the first taxable year are reasonably projected to be, from charges for advertising services. For purposes of this definition, “gross receipts” does not include charges for printing, imprinting, reproduction, publishing of tangible personal property or photography to the extent that:

(A) The activity was not performed by the business itself but was contracted out to another business; and

(B) The charges for the activity were passed through the business to its client;

(2) “Advertising materials” means tangible personal property or its digital equivalent produced to advertise a product, service, idea, concept, issue, place or thing, including, but not limited to, brochures, catalogs and point-of-
purchase materials, but not including preliminary artwork, and not includ-
ing original sound recordings or video recordings produced by recording
studios, television studios, video production studios or by or for advertising
agencies, or masters produced from the original recordings, regardless of
whether the original recordings or masters are produced in a tangible
medium or a digital equivalent;

(3)(A) “Advertising services” means services rendered by an advertising
agency to promote a product, service, idea, concept, issue, place or thing,
including services rendered to design and produce advertising materials
prior to the acceptance of the advertising materials for reproduction or
publication, including, but not limited to:

(i) Advice and counseling regarding marketing and advertising;
(ii) Strategic planning for marketing and advertising;
(iii) Consumer research;
(iv) Account planning;
(v) Public relations;
(vi) Design;
(vii) Layout;
(viii) Preparation of preliminary art;
(ix) Creative consultation, coordination, media placement, direction
and supervision;
(x) Script and copywriting;
(xi) Editing;
(xii) Supervision of the production of advertising materials, including
quality control;
(xiii) Direct mail; and
(xiv) Account management services;

(B) “Advertising services” does not include the production of final
artwork or advertising materials;

(4) “Agricultural purposes” means operating tractors or other farm equip-
ment used exclusively, whether for hire or not, in plowing, planting, harvest-
ing, raising or processing of farm products at a farm, nursery or greenhouse,
operating farm irrigation systems, or operating motor vehicles or other
logging equipment used exclusively, whether for hire or not, in cutting and
harvesting trees, when the vehicles or equipment are not operated upon the
public highways of this state;

(5) “Aircraft” has the same meaning used in § 42-1-101;

(6) “Alcoholic beverages” means beverages that are suitable for human
consumption and contain one-half of one percent (0.5%) or more of alcohol by
volume;

(7) “Ancillary services” means services that are associated with, or inci-
dental to, the provision of telecommunications services, including, but not
limited to, detailed telecommunications billing service, directory assistance
service, vertical service, and voice mail service. As used in this subdivision
(7):

(A) “Conference bridging service” means an ancillary service that links
two (2) or more participants of an audio or video conference call, and may
include the provision of a telephone number. Conference bridging service
does not include the telecommunications services used to reach the confer-
ence bridge;

(B) “Detailed telecommunications billing service” means an ancillary
service of separately stating information pertaining to individual calls on
a customer’s billing statement;

(C) “Directory assistance” means an ancillary service of providing telephone number information, and address information;

(D) “Vertical service” means an ancillary service that is offered in connection with one (1) or more telecommunications services, that offers advanced calling features that allow customers to identify callers and to manage multiple calls and call connections, including conference bridging services; and

(E) “Voice mail service” means an ancillary service that enables the customer to store, send or receive recorded messages. Voice mail service does not include any vertical services that the customer may be required to have in order to utilize the voice mail service;

(8)(A) “Bundled transaction” means the retail sale of two (2) or more products, except real property and services to real property where:

(i) The products are otherwise distinct and identifiable; and
(ii) The products are sold for one (1) non-itemized price;

(B) A “bundled transaction” does not include the sale of any products in which the sales price varies, or is negotiable, based on the selection by the purchaser of the products included in the transaction.

(C) “Distinct and identifiable products” does not include:

(i) Packaging, such as containers, boxes, sacks, bags, and bottles, or other materials, such as wrapping, labels, tags, and instruction guides, that accompany the retail sale of the products and are incidental or immaterial to the retail sale of the products. Examples of packaging that is incidental or immaterial include grocery sacks, shoeboxes, dry cleaning garment bags and express delivery envelopes and boxes;

(ii) A product provided free of charge with the required purchase of another product. A product is provided free of charge if the sales price of the product purchased does not vary depending on the inclusion of the product provided free of charge;

(iii) Items included in the definition of sales price, pursuant to subdivision (81);

(D) “One non-itemized price” does not include a price that is separately identified by product on binding sales or other supporting sales-related documentation made available to the customer in paper or electronic form, including, but not limited to, an invoice, bill of sale, receipt, contract, service agreement, lease agreement, periodic notice of rates and services, rate card, or price list;

(E) A transaction that otherwise meets the definition of a bundled transaction is not a bundled transaction if it is:

(i) The retail sale of tangible personal property and a service where the tangible personal property is essential to the use of the service, and is provided exclusively in connection with the service, and the true object of the transaction is the service;

(ii) The retail sale of services where one (1) service is provided that is essential to the use or receipt of a second service and the first service is provided exclusively in connection with the second service and the true object of the transaction is the second service;

(iii) A transaction that includes taxable products and nontaxable products and the purchase price or sales price of the taxable products is de minimis;
(a) “De minimis” means the seller’s purchase price or sales price of the taxable products is ten percent (10%) or less of the total purchase price or sales price of the bundled products;

(b) Sellers shall use either the purchase price or the sales price of the products to determine if the taxable products are de minimis. Sellers may not use a combination of the purchase price and sales price of the products to determine if the taxable products are de minimis; and

(c) Sellers shall use the full term of a service contract to determine if the taxable products are de minimis; or

(iv)(a) The retail sale of exempt tangible personal property and taxable tangible personal property, where:

(1) The transaction includes food and food ingredients, drugs, durable medical equipment, mobility enhancing equipment, over-the-counter drugs, prosthetic devices or medical supplies; and

(2) The seller’s purchase price or sales price of the taxable tangible personal property is fifty percent (50%) or less of the total purchase price or sales price of the bundled tangible personal property;

(b) Sellers may not use a combination of the purchase price and sales price of the tangible personal property when making the fifty percent (50%) determination for a transaction;

(9)(A) “Business” means any activity engaged in by any person, or caused to be engaged in by such person, with the object of gain, benefit, or advantage, either direct or indirect;

(B) “Business” does not include occasional and isolated sales or transactions by a person not regularly engaged in business, or the occasional and isolated sale at retail or use of services sold by or purchased from a person not regularly engaged in business as a vendor of taxable services, or from one who is such a vendor but is not normally a vendor with respect to the services sold or purchased in such occasional or isolated transaction. “Business” does not include those occasional or isolated sales or transactions by such a person involving mobile homes or house trailers, as defined by § 55-4-111, when the consummation of such exclusively involves the assumption by the purchaser of a previously existing finance contract and no other consideration is received by the seller. “Business” does not include any sales or use tax of tangible personal property of any type sold directly to consumers by any person, including, but not limited to, the Girl Scouts or county fairs; provided, however, that the tangible personal property is not regularly sold by the person or is regularly sold by the person only during a temporary sales period that occurs on a semiannual, or less frequent, basis, or, if sold by a volunteer fire department, only during a temporary sales period that occurs no more than four (4) times per calendar year. For charitable entities whose primary purpose is fundraising in support of a city, county, or metropolitan library system, “business” does not include sales, including online sales, that the charitable entity elects to make in lieu of two (2) semiannual temporary sales periods; provided, that the sales do not exceed three hundred thousand dollars ($300,000) per calendar year; and provided further, that the election by the charitable entity must remain in effect for no less than four (4) years. For a community foundation described in 26 U.S.C. § 170(c)(2), “business” does not include sales that the community foundation elects to make in lieu of two (2)
semiannual temporary sales periods; provided, that in any calendar year, the sales shall take place during no more than two (2) auctions, which last no more than twenty-four (24) hours, in each county designated to receive charitable support from a fund or trust that comprises a component part of the community foundation, as described in 26 CFR § 1.170A-9(f)(11)(ii);

(C) “Business” includes occasional and isolated sales or transactions of aircraft, vessels, or motor vehicles between corporations and their members or stockholders and also includes such transactions caused by the merger, consolidation, or reorganization of corporations. “Business” also includes occasional and isolated sales or transactions of aircraft, vessels, or motor vehicles between partnerships and the partners thereof and transfers between separate partnerships. Transfers caused by the dissolution of a partnership due solely to a partner, in a partnership composed of three (3) or more persons, voluntarily ceasing to be associated in the carrying on of business of the partnership, as provided in § 61-1-128 [repealed], is not included in “business.” “Business” shall be construed to include occasional and isolated sales or transactions by such a person involving aircraft, vessels or motor vehicles, which terms include trailers and special motor equipment sold in conjunction therewith, as defined by and required to be registered under the laws of Tennessee with an agency of this state or under the laws of the United States with an agency of the federal government, unless such sales or transactions are otherwise exempt under this chapter or are sales between persons who are married, lineal relatives or spouses of lineal relatives, or siblings. Such sales or transactions involving aircraft based in this state shall be presumed to be made and taxable in this state; and any registration reflecting such aircraft that are so based shall constitute evidence thereof;

(10) “Candy” means a preparation of sugar, honey, or other natural or artificial sweeteners in combination with chocolate, fruits, nuts, or other ingredients or flavorings in the form of bars, drops, or pieces. Candy shall not include any preparation containing flour and shall require no refrigeration;

(11) “Certified automated system” means software certified under the Streamlined Sales and Use Tax Agreement (SSUTA) to calculate the tax imposed by each jurisdiction on a transaction, determine the amount of tax to remit to the appropriate state, and maintain a record of the transaction;

(12) “Certified service provider” means an agent certified under the Streamlined Sales and Use Tax Agreement to perform all of the seller’s sales and use tax functions, other than the seller’s obligation to remit tax on its own purchases;

(13) “Clothing” means all human wearing apparel suitable for general use;

(14) “Clothing accessories or equipment” means incidental items worn on the person or in conjunction with clothing;

(15) “Coin-operated telephone service” means a telecommunications service paid for by inserting money into a telephone accepting direct deposits of money to operate;

(16) “Commercial air carrier” means an entity authorized and certificated by the United States department of transportation or another federal or a foreign authority to engage in the carriage of persons or property in interstate or foreign commerce;

(17) “Commissioner” means and includes the commissioner of revenue or the commissioner’s duly authorized assistants;
“Common carrier” means every person holding a certificate of public convenience and necessity as a common carrier from the interstate commerce commission or the United States department of transportation or its predecessor agency of the federal government;

“Computer” means an electronic device that accepts information in digital or similar form and manipulates it for a result based on a sequence of instructions;

“Computer software” means a set of coded instructions designed to cause a computer or automatic data processing equipment to perform a task;

“Computer software maintenance contract” means a contract that obligates a person to provide a customer with future updates or upgrades to computer software, support services with respect to computer software, or both. However, “computer software maintenance contract” does not include telephone or other support services that are optional and are sold separately and invoiced separately and do not include any transfer, repair or maintenance of computer software on the part of the seller;

“Construction machinery” means machinery designed for and used exclusively in the preparation for, assembly, fabrication, and finishing of permanent improvements to real estate;

“Cost price” means the actual cost of articles of tangible personal property without any deductions therefrom on account of the cost of materials used, labor, or service costs, transportation charges, or any expenses whatsoever;

“Data center” means a building or buildings, either newly constructed, expanded, or remodeled, housing high-tech computer systems and related equipment;

“Dealer” means every person, as used in this chapter, including Model 1, Model 2, and Model 3 sellers, where the context requires, who:

(A) Manufactures or produces tangible personal property for sale at retail, for use, consumption, distribution, or for storage to be used or consumed in this state;

(B) Imports, or causes to be imported, tangible personal property from any state or foreign country, for sale at retail, for use, consumption, distribution, or for storage to be used or consumed in this state;

(C) Sells at retail, or who offers for sale at retail, or who has in such person’s possession for sale at retail, or for use, consumption, distribution, or storage to be used or consumed in this state, tangible personal property as defined in this section;

(D) Has sold at retail, used, consumed, distributed, or stored for use or consumption in this state, tangible personal property and who cannot prove that the tax levied by this chapter has been paid on the sale at retail, the use, the consumption, the distribution, or the storage of the tangible personal property;

(E) Leases or rents tangible personal property, as defined in this chapter, for a consideration, permitting the use or possession of the property without transferring title to such property;

(F) Is the lessee or renter of tangible personal property, as defined in this chapter, and who pays to the owner of such property a consideration for the use or possession of such property without acquiring title to such property;

(G) Maintains or has within this state, directly or by a subsidiary, an office, distributing house, sales room or house, warehouse, or other place of
business;

(H) Furnishes any of the things or services taxable under this chapter;

(I) Has any representative, agent, salesperson, canvasser or solicitor operating in this state, or any person who serves in such capacity, for the purpose of making sales or the taking of orders for sales, regardless of whether such representative, agent, salesperson, canvasser or solicitor is located here permanently or temporarily, and regardless of whether an established place of business is maintained in this state;

(J) Engages in the regular or systematic solicitation of a consumer market in this state by the distribution of catalogs, periodicals, advertising fliers, or other advertising, or by means of print, radio or television media, by telegraphy, telephone, computer data base, cable, optic, microwave, or other communication system;

(K) Uses tangible personal property, whether the title to such property is in such person or some other entity, and whether or not such other entity is required to pay a sales or use tax, in the performance of such person’s contract or to fulfill such person’s contract obligations, unless such property has previously been subjected to a sales or use tax, and the tax due thereon has been paid;

(L) Sells at retail or charges admission, dues or fees as defined in this chapter;

(M) Rents or provides space to a dealer without a permanent location in this state or to dealers who are registered for sales tax at other locations in this state, but who are making sales at this location on a less than permanent basis; provided, that “dealer” does not include flea market operators;

(26) “Delivered electronically” means delivered to the purchaser by means other than tangible storage media;

(27)(A) “Delivery charges” means charges by the seller of personal property or services for preparation and delivery to a location designated by the purchaser of personal property or services, including, but not limited to, transportation, shipping, postage, handling, crating, and packing. Delivery charges shall not include delivery for direct mail when the charges are separately stated on an invoice or similar billing document given to the purchaser. If the shipment includes exempt property and taxable property, the seller should allocate the delivery charge by using:

(i) A percentage based on the total sales price of the taxable property compared to the sales prices of all property in the shipment; or

(ii) A percentage based on the total weight of the taxable property compared to the total weight of all property in the shipment;

(B) The seller shall tax the percentage of the delivery charge allocated to the taxable property but does not have to tax the percentage allocated to the exempt property;

(28) “Dietary supplement” means any product, other than tobacco, intended to supplement the diet that:

(A) Contains one (1) or more of the following dietary ingredients:

(i) A vitamin;

(ii) A mineral;

(iii) An herb or other botanical;

(iv) An amino acid;

(v) A dietary substance for use by humans to supplement the diet by
increasing the total dietary intake; or

(vi) A concentrate, metabolite, constituent, extract, or combination of any ingredient described in subdivisions (28)(A)(i)-(v);

(B) Is intended for ingestion in tablet, capsule, powder, softgel, gelcap, or liquid form, or if not intended for ingestion in such a form, is not represented as conventional food and is not represented for use as a sole item of a meal or of the diet; and

(C) Is required to be labeled as a dietary supplement, identifiable by the supplement facts box found on the label and as required pursuant to 21 CFR 101.36;

(29) “Digital audio works” means works that result from the fixation of a series of musical, spoken, or other sounds, that are transferred electronically, including prerecorded or live songs, music, readings of books or other written materials, speeches, ringtones, or other sound recording. For purposes of this subdivision (29), “ringtones” means digitized sound files that are downloaded onto a device and that may be used to alert the customer with respect to a communication. “Digital audio works” does not include audio greeting cards sent by electronic mail;

(30) “Digital audio-visual works” means a series of related images that, when shown in succession, impart an impression of motion, together with accompanying sounds, if any, that are transferred electronically. “Digital audio-visual works” includes motion pictures, musical videos, news and entertainment programs, and live events. “Digital audio-visual works” does not include video greeting cards sent by electronic mail or video or electronic games;

(31) “Digital books” means works that are generally recognized in the ordinary and usual sense as “books” that are transferred electronically, including works of fiction and nonfiction and short stories. “Digital books” does not include newspapers, magazines, periodicals, chat room discussions or weblogs;

(32) “Direct mail” means printed material delivered or distributed by United States mail or other delivery service to a mass audience or to addressees on a mailing list provided by the purchaser or at the direction of the purchaser when the cost of the items are not billed directly to the recipients. “Direct mail” includes tangible personal property supplied directly or indirectly by the purchaser to the direct mail seller for inclusion in the package containing the printed material. “Direct mail” does not include multiple items of printed material delivered to a single address;

(33) “Direct pay permit” means special written permission granted to a taxpayer by the commissioner to make all purchases free of the sales or use tax and report all sales or use tax due directly to the department;

(34) “Direct pay permit holder” means a taxpayer who holds a direct pay permit;

(35) “Drug” means a compound, substance or preparation, and any component of a compound, substance or preparation, other than food and food ingredients, dietary supplements or alcoholic beverages:

(A) Recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, and supplement to any of them;

(B) Intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease; or
(C) Intended to affect the structure or any function of the body;

(36) (A) “Durable medical equipment” means equipment that:

(i) Can withstand repeated use;

(ii) Is primarily and customarily used to serve a medical purpose;

(iii) Generally is not useful to a person in the absence of illness or injury; and

(iv) Is not worn in or on the body;

(B) “Durable medical equipment” includes repair and replacement parts for the equipment; provided, however, that the repair and replacement parts shall not include parts, components, or attachments that are for single patient use. “Durable medical equipment” does not include mobility enhancing equipment;

(37) “Electronic” means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities;

(38) “Energy resource recovery facility” means a facility for the production of energy in the form of steam or chilled water from the controlled burning of combustible materials, including, but not limited to, coal, fuel oil, or natural gas, where such energy is to be used in a system for heating and cooling five or more separate buildings;

(39) “Fabricating or processing tangible personal property for resale” means only tangible personal property that is fabricated or processed for resale and ultimate use or consumption off the premises of the one engaging in such fabricating or processing, or hot mix asphalt and crushed stone fabricated by a contractor for use by the contractor in highway or road construction projects funded by tax revenues. “Fabricating or processing tangible personal property for resale” shall be deemed to include providing fabrication and repair services to aircraft owned by nonaffiliated business entities whether commercial, governmental or foreign; provided, that the dealer performing such services qualifies for the credit allowed in § 67-4-2109(b). “Fabricating or processing tangible personal property for resale” shall not include any other type of repair services. “Fabricating or processing tangible personal property for resale” includes the processing of photographic film into negatives and/or photographic prints for resale;

(40) “Final artwork” means tangible personal property or its digital equivalent that is suitable for use in producing advertising materials and includes, but is not limited to, photographs, illustrations, drawings, paintings, calligraphy, models and similar works that are used to produce advertising materials, but does not include preliminary artwork or original sound recordings or video recordings produced by recording studios, television studios, video production studios, or by or for advertising agencies, or masters produced from the original recordings regardless of whether the original recordings or masters are produced in a tangible medium or a digital equivalent;

(41) “Flea market” means a place of business that provides space more than two (2) times a year to two (2) or more persons for the purpose of making sales at retail of tangible personal property that, during the usual course of being displayed or offered for sale, is not stored or displayed permanently at that space. “Flea market” does not include hotels, convention centers, municipal auditoriums, municipal coliseums, or gun shows, if such gun shows are sponsored by a not-for-profit corporation;

(42) “Flea market operator” means any person who receives compensation for providing space more than two (2) times a year to two (2) or more persons
for the purpose of making sales at retail of tangible personal property that, during the usual course of being displayed or offered for sale, is not stored or displayed permanently at that space. “Flea market operator” does not include a hotel, convention center, municipal auditorium, municipal coliseum, or gun show operator, if such gun shows are sponsored by a not-for-profit corporation;

(43) “Food and food ingredients” means substances, whether in liquid, concentrated, solid, frozen, dried, or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value. “Food and food ingredients” does not include alcoholic beverages, tobacco, candy, dietary supplements, or prepared food;

(44) “Grooming and hygiene products” are soaps and cleaning solutions, shampoo, toothpaste, mouthwash, antiperspirants, and suntan lotions and screens, regardless of whether the items meet the definition of over-the-counter drugs;

(45) “Gross sales” means the sum total of all retail sales of tangible personal property and all proceeds of services taxable under this chapter as defined in this section, without any deduction whatsoever of any kind or character, except as provided in this chapter;

(46) “Industrial machinery” means:

(A)(i) Machinery, apparatus and equipment with all associated parts, appurtenances and accessories, including hydraulic fluids, lubricating oils, and greases necessary for operation and maintenance, repair parts and any necessary repair or taxable installation labor therefor; that is necessary to, and primarily for; the fabrication or processing of tangible personal property for resale and consumption off the premises, or pollution control facilities primarily used for air pollution control or water pollution control, where the use of such machinery, equipment or facilities is by one who engages in such fabrication or processing as one’s principal business or who engages in the fabrication or processing of materials into trusses, window units or door units for resale as part of the principal business of the sale of building supplies either within or without this state, or such use by a county, municipality, or water and wastewater treatment authority created by private act or pursuant to the Water and Wastewater Treatment Authority Act, compiled in title 68, chapter 221, part 6, or a contractor pursuant to a contract with the county, municipality, or water and wastewater treatment authority for use in water pollution control or sewage systems, also mining machinery, apparatus equipment and materials, with all associated parts and accessories, including repair parts and any necessary repair or installation labor, that is necessary to and primarily for:

(a) The removal, extraction or detachment of coal from land by surface, underground or other lawful methods of mining and the construction or maintenance of necessary ingress and egress from the mine;

(b) The removal, handling and replacement of overburden and spoils materials; or

(c) The reclamation of mined areas reclaimed under state or federal laws, rules or regulations;

(ii) As used in this chapter, “pollution control facilities” means any system, method, improvement, structure, device or appliance appurte-
nant thereto used or intended for the primary purpose of eliminating, preventing or reducing air or water pollution, or for the primary purpose of treating, pretreating, recycling or disposing of any hazardous or toxic waste, solid or liquid, when such pollutants are created as a result of fabricating or processing by one who engages in fabricating or processing as such person’s principal business activity, which, if released without such treatment, pretreatment, modification or disposal, might be harmful, detrimental or offensive to the public and the public interest;

(B) Machinery that is necessary to and primarily for remanufacturing industrial machinery as defined in subdivision (46)(A) when such utilization is by one whose principal business is that of remanufacturing industrial machinery. For the purposes of this subdivision (46)(B), “remanufacturing” means making new or different products with new or different functions from the scrap materials used to make them;

(C) Machinery utilized in the pre-press and press operations in the business of printing, including plates and cylinders, and including the component parts and fluids or chemicals necessary for the specific mechanical or chemical actions or operations of such machinery, plates and cylinders, regardless of whether or not the operations occur at the point of retail sales;

(D) Such industrial machinery necessary to and primarily for the fabrication and processing of tangible personal property for resale or used primarily for the control of air pollution or water pollution includes, but is not limited to:

(i) Machines used for generating, producing, and distributing utility services, electricity, steam, and treated or untreated water; and

(ii) Equipment used in transporting raw materials from storage to the manufacturing process, and transporting finished goods from the end of the manufacturing process to storage;

(E)(i) Machinery used to package manufactured items, where the use of such machinery is by a person whose principal business is fabricating or processing tangible personal property for resale. Notwithstanding the principal business of the user, this exemption shall also apply where the use of such machinery at a location is to package automotive aftermarket products manufactured at other locations by the same person or by a corporation affiliated with the manufacturing corporation such that:

(a) Either corporation directly owns or controls one hundred percent (100%) of the capital stock of the other corporation; or

(b) One hundred percent (100%) of the capital stock of both corporations is directly owned or controlled by a common parent;

(ii) To “package,” as used in subdivision (46)(E)(i), refers only to the fabrication and/or installation of that packaging that will accompany the product when sold at retail;

(F) Such industrial machinery necessary to and primarily for the fabrication or processing of tangible personal property for resale and consumption off the premises or used primarily for the control of air pollution or water pollution does not include machinery, apparatus and equipment used prior to or after equipment exempted by subdivision (46)(D)(ii), and does not include equipment used for maintenance or the convenience or comfort of workers;

(G) Machinery, apparatus and equipment with all associated parts, appurtenances and accessories, including hydraulic fluids, lubricating oils
and greases necessary for operation and maintenance, repair parts and any necessary repair or taxable installation labor therefor, that is necessary to, and primarily for, the fabricating or processing of prescription eyewear, where a majority of such eyewear is ultimately dispensed to patients in states other than Tennessee;

(H)(i) Material handling equipment and racking systems, used by the taxpayer, directly and primarily for the storage or handling and movement of tangible personal property in a qualified, new or expanded warehouse or distribution facility, that are purchased beginning one (1) year prior to the start of the construction or expansion and ending one (1) year after the substantial completion of the construction or expansion of the facility, but in no event shall the period exceed three (3) years. “Qualified, new or expanded warehouse or distribution facility” means a new or expanded facility, that meets the requirements set out in this subdivision (46)(H), for the storage or distribution of finished tangible personal property. Such facilities shall not include a building where tangible personal property is fabricated, processed, assembled or sold over-the-counter to consumers, except for taxpayers that qualify under the provisions of chapter 185 of the Public Acts of 1995, or are configuring, testing or packaging computer products. “Configuring” computer products means integrating a computer with peripheral computer products, such as a hard disk drive, additional memory or software. A qualifying facility must also be:

(a) A warehouse or distribution facility constructed in this state through an investment in excess of ten million dollars ($10,000,000) by the taxpayer, and/or a lessor to the taxpayer, over a period not exceeding three (3) years, in a newly constructed and previously unoccupied building and/or equipment for the facility;

(b) An expansion to an existing warehouse or distribution facility, previously qualified under subdivision (46)(H)(i), through an additional investment in excess of ten million dollars ($10,000,000) by the taxpayer, and/or a lessor to the taxpayer over an additional period not exceeding three (3) years, for additions to the building and the purchase of new equipment for use in the expanded facility;

(c) A warehouse or distribution facility in this state that is purchased and either renovated or expanded through an investment in excess of ten million dollars ($10,000,000) in such purchase and renovation or expansion by the taxpayer, and/or a lessor to the taxpayer, including the purchase of new equipment for such a building, over a period not exceeding three (3) years; or

(d) An expansion to an existing warehouse or distribution facility in this state through an aggregate investment in excess of twenty million dollars ($20,000,000) by the taxpayer, and/or a lessor to the taxpayer, over a period not exceeding three (3) years, consisting of an investment in excess of ten million dollars ($10,000,000) in the renovation or expansion of an existing building and/or the purchase of new equipment for such a building, together with an investment in excess of ten million dollars ($10,000,000) in the construction of a new, previously unoccupied building and/or equipment for such a building;

(ii) A taxpayer shall qualify for the exemption afforded to material handling and racking systems under subdivision (46)(H)(i) by submit-
ting an application to the commissioner for the exemption, together with a plan describing the investment to be made. The application and plan shall be submitted on forms prescribed by the commissioner. The plan shall demonstrate that the requirements of the law will be met. Upon approval of the exemption request and plan for investment, purchases of the equipment may be made without payment of the sales or use tax. However, if the requisite investment is not made in the time period required, or the terms of the statute are not met, the taxpayer shall be subject to assessment for any tax, penalty or interest that would otherwise have been due;

(I) Material handling equipment and racking systems used in a warehouse and distribution facility, subject to all the requirements and conditions of subdivision (46)(H), except:

(i) The required investment in excess of ten million dollars ($10,000,000) may also be made in a previously occupied facility:

(a) Through the purchase of a building, and/or the purchase of new equipment for use in the building no later than one (1) year after the purchase of the building; or

(b) Through the purchase of new equipment for use in a leased building, not qualifying under subdivision (46)(I)(i)(a), made no later than one (1) year after the date of the lease agreement; and

(ii) Any purchases exempted from tax for use in the facility described in this subdivision (46)(I) must be made no later than one (1) year after the purchase of the building under subdivision (46)(I)(i)(a), or no later than one (1) year after the date of the lease agreement under subdivision (46)(I)(i)(b);

(J) “Industrial machinery” does not include machinery, apparatus and equipment, with all associated parts, appurtenances, accessories, repair parts, and necessary repair or taxable installation labor therefor, that is used in the preparation of food for immediate retail sale;

(K) “Industrial machinery” also includes any “computer”, “computer network”, “computer software”, or “computer system”, as defined by § 39-14-601, and any peripheral devices, including, but not limited to, hardware such as printers, plotters, external disc drives, modems, and telephone units, when such items are used in the operation of a qualified data center. For purposes of this subdivision (46)(K), “industrial machinery” includes repair parts, repair or installation services, and warranty or service contracts, purchased for such items used in the operation of a qualified data center;

(L) “Industrial machinery” includes machinery, apparatus and equipment with all associated parts, appurtenances, accessories, repair parts and necessary repair or taxable installation labor therefor, that is necessary to and used primarily for the conversion of tangible personal property into taxable specified digital products for resale and consumption off the premises. “Industrial machinery” does not include machinery, apparatus or equipment, with all associated parts, appurtenances, accessories, repair parts and necessary repair or taxable installation labor therefor, that is used primarily for the storage or distribution of such specified digital products following such conversion; and

(M) “Industrial machinery” also includes machinery, apparatus, and equipment with all associated parts, appurtenances, and accessories,
including hydraulic fluids, lubricating oils, and greases necessary for operation and maintenance, repair parts, and any necessary repair or taxable installation labor therefor, that is necessary to, and primarily for, the purpose of research and development;

(47) “International,” as used in connection with telecommunications services, means a telecommunications service that originates or terminates in the United States, and terminates or originates outside the United States, respectively. United States includes the District of Columbia and a United States territory or possession;

(48) “Interstate,” as used in connection with telecommunications services, means a telecommunications service that originates in one (1) United States state, or a United States territory or possession, and terminates in a different United States state or a United States territory or possession;

(49) “Intrastate,” as used in connection with telecommunications services, means a telecommunications service that originates in one (1) United States state or United States territory or possession, and terminates in the same United States state or United States territory or possession;

(50) “Layaway sale” means a transaction in which property is set aside for future delivery to a customer who makes a deposit, agrees to pay the balance of the purchase price over a period of time, and, at the end of the payment period, receives the property. An order is accepted for layaway by the seller, when the seller removes the property from normal inventory or clearly identifies the property as sold to the purchaser;

(51) “Lease or rental” means any transfer of possession or control of tangible personal property for a fixed or indeterminate term for consideration. A “lease or rental” may include future options to purchase or extend;

(A) “Lease or rental” does not include:

(i) A transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments;

(ii) A transfer of possession or control of property under an agreement that requires the transfer of title upon completion of required payments and payment of an option price does not exceed the greater of one hundred dollars ($100) or one percent (1%) of the total required payments;

(iii) Providing tangible personal property along with an operator for a fixed or indeterminate period of time. A condition of this exclusion is that the operator is necessary for the equipment to perform as designed. For the purpose of this subdivision (51), an operator must do more than maintain, inspect, or set-up the tangible personal property; or

(iv) Providing a dumpster or other container for waste or debris removal for a fixed or indeterminate period of time along with the delivery and pickup of the dumpster. A condition of this exclusion is that the provider of the dumpster is exclusively responsible for delivery and pickup of the dumpster;

(B) “Lease or rental” includes agreements covering motor vehicles and trailers where the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as defined in 26 U.S.C. § 7701(h)(1);

(C) This subdivision (51) shall be used for sales and use tax purposes regardless if a transaction is characterized as a lease or rental under generally accepted accounting principles, the Internal Revenue Code (26

Path: @psc3912/nep_usa_prv/XPRIMARY/STATUTES/TN_IS/EP_PRIMARYtn_statutes_codebillv2_102319103500034_txt
U.S.C.), or title 47, chapter 2A, or other federal, state or local law;

(D) This subdivision (51) shall be applied only prospectively from the date of adoption [January 1, 2008] and shall have no retroactive impact on existing leases or rentals;

(52) “Livestock and poultry feed” means and includes all grains, minerals, salts, proteins, fats, fibers and all vitamins, acids and drugs used and mixed with such ingredients as a growth stimulant, disease preventive, to stimulate feed conversion and make a complete feed;

(53) “Local tax jurisdiction” means a geographic area where the same local option tax, either county tax or a combination of county and municipal tax, applies;

(54) “Mobile telecommunications service” means the same as that term is defined in the Mobile Telecommunications Sourcing Act, Public Law 106-252 (4 U.S.C. § 124(7));

(55) “Mobility enhancing equipment” means equipment, including repair and replacement parts to the equipment, but does not include durable medical equipment that:

(A) Is primarily and customarily used to provide or increase the ability to move from one place to another and that is appropriate for use either in a home or a motor vehicle;

(B) Is not generally used by persons with normal mobility; and

(C) Does not include any motor vehicle or equipment on a motor vehicle normally provided by a motor vehicle manufacturer;

(56) “Model 1 seller” means a seller that has selected a certified service provider as its agent to perform all of the seller’s sales and use tax functions, other than the seller’s obligation to remit tax on its own purchases;

(57) “Model 2 seller” means a seller that has selected a certified automated system to perform part of its sales and use tax functions, but retains responsibility for remitting the tax;

(58) “Model 3 seller” means a seller that has sales in at least five (5) states that are members of the Streamlined Sales and Use Tax Agreement, has total annual sales revenue of at least five hundred million dollars ($500,000,000), has a proprietary system that calculates the amount of tax due each jurisdiction, and has entered into a performance agreement with the member states that establishes a tax performance standard for the seller. As used in this subdivision (58), a seller includes an affiliated group of sellers using the same proprietary system;

(59) “OEM headquarters company” means an original equipment manufacturer that is engaged in the business of manufacturing motor vehicles and qualifies to receive the credit provided in § 67-6-224, or any affiliate thereof. For purposes of this subdivision (59), “affiliate” has the same meaning as provided in § 67-4-2004;

(60) “OEM headquarters company vehicle” means any motor vehicle subject to registration in accordance with title 55 that is owned by an OEM headquarters company, whether used for sales or service training, advertising, quality control, testing, evaluation or such other uses as approved by the commissioner, and, further, including motor vehicles provided by the OEM headquarters company for use by eligible employees and their eligible family members in accordance with policies established by the OEM headquarters company and approved by the commissioner;

(61)(A) “Over-the-counter-drug” means a drug that contains a label that identifies the product as a drug as required by 21 CFR 201.66. The
“over-the-counter-drug” label includes:
   (i) A drug facts panel; or
   (ii) A statement of the active ingredients, with a list of those ingredients contained in the compound, substance or preparation;
(B) “Over-the-counter-drug” does not include grooming and hygiene products;
(62) “Permanent location” does not include any booths or space located at a flea market, antique mall, craft show, antique show, gun show, auto show or any similar type business;
(63) “Person” includes any individual, firm, co-partnership, joint venture, association, corporation, estate, trust, business trust, receiver, syndicate, any governmental agency whose services are essentially a private commercial concern, or other group or combination acting as a unit, in the plural as well as the singular number. “Person” further includes any political subdivision or governmental agency, including electric membership corporations or cooperatives, and utility districts, to the extent that such agency sells at retail, rents or furnishes any of the things or services taxable under this chapter;
(64) “Place of primary use” means the street address representative of where the customer’s use of the telecommunications service primarily occurs, which must be the residential street address or the primary business street address of the customer. In the case of mobile telecommunications service, “place of primary use” shall be within the licensed service area of the home service provider;
(65) “Preliminary artwork” means tangible personal property and digital equivalents that are produced by an advertising agency in the course of providing advertising services solely for the purpose of conveying concepts or ideas or demonstrating an idea or message to a client and includes, but is not limited to concept sketches, illustrations, drawings, paintings, models, photographs, storyboards or similar materials;
(66) “Prepaid calling service” means the right to access exclusively telecommunications services that must be paid for in advance and that enable the origination of calls using an access number or authorization code, whether manually or electronically dialed, and that is sold in predetermined units or dollars of which the number declines with use in a known amount;
(67) “Prepaid wireless calling service” means a telecommunications service that provides the right to utilize mobile wireless service, as well as other nontelecommunications services, including the download of digital products delivered electronically, content and ancillary services that must be paid for in advance that is sold in predetermined units of dollars of which the number declines with use in a known amount;
(68)(A) “Prepared food” means:
   (i) Food sold in a heated state or heated by the seller;
   (ii) Two (2) or more food ingredients mixed or combined by the seller for sale as a single item; or
   (iii) Food sold with eating utensils provided by the seller, including plates, knives, forks, spoons, glasses, cups, napkins, or straws. A plate does not include a container or packaging used to transport the food;
   (B) “Prepared food” in subdivision (68)(A)(ii) does not include food that is only cut, repackaged, or pasteurized by the seller; and eggs, fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the consumer as recommended by the food and drug administration (FDA) in chapter 3, § 401.11 of the FDA’s food code so as to prevent food borne
illnesses;
(69) “Prescription” means an order, formula or recipe issued in any form of oral, written, electronic, or other means of transmission by a duly licensed practitioner authorized by the laws of this state;
(70) “Prewritten computer software” means computer software, including prewritten upgrades, that is not designed and developed by the author or other creator to the specifications of a specific purchaser. The combining of two (2) or more prewritten computer software programs or prewritten portions of computer software does not cause the combination to be other than prewritten computer software. “Prewritten computer software” includes software designed and developed by the author or other creator to the specifications of a specific purchaser when it is sold to a person other than the purchaser. Where a person modifies or enhances computer software of which the person is not the author or creator, the person shall be deemed to be the author or creator only of that person’s modifications or enhancements. “Prewritten computer software” or a prewritten portion of the computer software that is modified or enhanced to any degree, where the modification or enhancement is designed and developed to the specifications of a specific purchaser, remains prewritten computer software; provided, however, that where there is a reasonable, separately stated charge or an invoice or other statement of the price given to the purchaser for the modification or enhancement, the modification or enhancement shall not constitute prewritten computer software;
(71) “Private communication service” means a telecommunications service that entitles the customer to exclusive or priority use of a communications channel or group of channels between or among termination points, regardless of the manner in which such channel or channels are connected, and includes switching capacity, extension lines, stations, and any other associated services that are provided in connection with the use of such channel or channels;
(72)(A) “Prosthetic device” means a replacement, corrective, or supportive device including repair and replacement parts for the replacement, corrective, or supportive device worn on or in the body to:
(i) Artificially replace a missing portion of the body;
(ii) Prevent or correct physical deformity or malfunction; or
(iii) Support a weak or deformed portion of the body;
(B) “Prosthetic device” does not include:
(i) Corrective eyeglasses; or
(ii) Contact lenses;
(73) “Protective equipment” means items for human wear, designed as protection of the wearer against injury or disease or as protection against damage or injury of other persons or property, but not suitable for general use;
(74) “Purchase price” applies to the measure subject to use tax and has the same meaning as sales price;
(75) “Qualified data center” means a data center that has made a required capital investment in excess of one hundred million dollars ($100,000,000) during an investment period not to exceed three (3) years and that creates at least fifteen (15) net new full-time employee jobs during the investment period paying at least one hundred fifty percent (150%) of the states’ average occupational wage as defined in § 67-4-2004. For purposes of this subdivision (75), “required capital investment” means an increase of a business
investment in real property, tangible personal property or computer software owned or leased in the state, valued in accordance with generally accepted accounting principles. A capital investment shall be deemed to have been made as of the date of payment or the date the taxpayer enters into a legally binding commitment or contract for purchase or construction. For purposes of this subdivision (75), “full-time employee job” means a permanent, rather than seasonal or part-time employment position for at least twelve (12) consecutive months to a person for at least thirty-seven and one-half (37 ½) hours per week with minimum health care, as described in title 56, chapter 7, part 22. The three-year period for making the required capital investment provided for in this subdivision (75) may be extended by the commissioner of economic and community development for a reasonable period, not to exceed four (4) years, for good cause shown. For purposes of this subdivision (75), “good cause” means a determination by the commissioner of economic and community development that the capital investment is a result of the exemption for industrial machinery used by a qualified data center;

(76) “Rain check” means the seller allows a customer to purchase an item at a certain price at a later time, because the particular item was out of stock;

(77)(A) “Resale” means a subsequent, bona fide sale of the property, services, or taxable item by the purchaser. “Sale for resale” means the sale of the property, services, or taxable item intended for subsequent resale by the purchaser. Any sales for resale shall, however, be in strict compliance with rules and regulations promulgated by the commissioner. Sales of tangible personal property or taxable services made by a dealer to an out-of-state vendor who directs that a dealer act as the out-of-state vendor’s agent to deliver or ship tangible personal property or taxable services to the out-of-state vendor’s customer, who is a user or consumer, are sales for resale;

(B)(i) “Sale for resale” does not include a sale of tangible personal property or software to a dealer for use in the business of selling services. Property used in the business of selling services includes, but is not limited to, property that is regularly furnished to purchasers of the service without separate charge. A dealer that sells services shall be considered the end user and consumer of property used in selling, performing, or furnishing such services. However, “sale for resale” does include the following items in the circumstances described:

(a) Repair parts or other property sold to a dealer if such property is subsequently transferred to the customer in conjunction with the dealer’s performance of repair services, regardless of whether the dealer makes a separately stated charge for such property;

(b) Installation parts or other property sold to a dealer if such property is subsequently transferred to the customer in conjunction with the installation of property that remains tangible personal property following such installation, regardless of whether the dealer makes a separately stated charge for such property;

(c) Mobile telephones and similar devices sold to a dealer if such property is subsequently transferred to the customer in conjunction with the sale of commercial mobile radio services (CMRS), regardless of whether the dealer makes a separately stated charge for such property; and

(d) Food or beverages sold to a hotel, motel, inn or other dealer that provides lodging accommodations if such food or beverages are subse-
to the customer in conjunction with the dealer’s sale of lodging accommodations to the customer, regardless of whether the dealer makes a separately stated charge for such property;

(ii) “Sale for resale” does not include a sale of services to a dealer for use in the business of selling, leasing, or renting tangible personal property or computer software. Services used in the business of selling, leasing, or renting tangible personal property include, but are not limited to, services such as cleaning, maintaining, or repairing property that is held as inventory for sale, lease, or rental. A dealer that sells, leases, or rents tangible personal property or computer software shall be considered the end user and consumer of services used in conducting such business;

(iii) Nothing in this subdivision (77) shall be construed as amending or otherwise effecting the exemption provided in § 67-6-392;

(78) “Retail sale” or “sale at retail” means any sale, lease, or rental for any purpose other than for resale, sublease, or subrent;

(79) “Retailer” means and includes every person engaged in the business of making sales at retail, or for distribution, use, consumption, storage to be used or consumed in this state or furnishing any of the things or services taxable under this chapter;

(80)(A) “Sale” means any transfer of title or possession, or both, exchange, barter, lease or rental, conditional or otherwise, in any manner or by any manner whatsoever of tangible personal property for a consideration, and includes the fabrication of tangible personal property for consumers who furnish, either directly or indirectly, the materials used in fabrication work, and the furnishing, repairing or serving for a consideration of any tangible personal property consumed on the premises of the person furnishing, preparing or serving such tangible personal property;

(B) A transaction whereby the possession of property is transferred but the seller retains title as security for the payment of the price shall be deemed a sale; provided, that where title to property is taken by an industrial development corporation, within the meaning of title 7, chapter 53, but the property is leased to a taxpayer, the transaction shall be regarded, for purposes of this chapter, as a sale and purchase by the industrial development corporation followed by a lease, regardless of whether the lessee has an option to purchase any or all of the property from the industrial development corporation;

(C) “Sale” includes the furnishing of any of the things or services taxable under this chapter;

(D) “Sale” includes the sale, gifts in connection with valuable contributions, exchange or other disposition of admission, dues or fees to membership sports and recreation clubs, places of amusement or recreational or athletic events or for the privilege of having access to or the use of amusement, recreational, athletic or entertainment facilities. Such establishments or facilities include, but are not limited to, the amusement and recreational facilities and motion picture theaters described in the standard industrial classification index prepared by the bureau of the budget of the federal government;

(E) “Sale” includes the renting or providing of space to a dealer or vendor without a permanent location in this state or to persons who are registered for sales tax at other locations in this state but who are making sales at this
location on a less than permanent basis;

(F) “Sale” includes the processing of photographic film into negatives and/or photographic prints for resale;

(G) “Sale” includes charges for admission, dues or fees that constitute a sale under this subdivision (80), except tickets for admission sold to a Tennessee dealer for resale upon presentation of a resale certificate. Dealers registered with the state for sales tax purposes may purchase tickets for resale without payment of tax upon presentation to the vendor of a valid certificate of resale;

(H) “Sale” includes all transactions that the commissioner, upon investigation, finds to be in lieu of sales;

(I) “Sale” includes a transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments;

(J) “Sale” includes a transfer of possession or control of property under an agreement that requires the transfer of title upon completion of required payments and payment of an option price that does not exceed the greater of one hundred dollars ($100) or one percent (1%) of the total required payments; and

(K) “Sale” includes any transfer of title or possession, or both, lease or licensing, in any manner or by any means whatsoever of computer software for consideration, and includes the creation of computer software on the premises of the consumer and any programming, transferring or loading of computer software into a computer;

(81)(A) “Sales price” applies to the measure subject to sales tax and means the total amount of consideration, including cash, credit, property, and services, for which personal property or services are sold, leased, or rented, valued in money, whether received in money or otherwise, without any deduction for the following:

(i) The seller’s cost of the property sold;

(ii) The cost of materials used, labor or service cost, interest, losses, all costs of transportation to the seller, all taxes imposed on the seller, and any other expense of the seller;

(iii) Charges by the seller for any services necessary to complete the sale, other than delivery and installation charges;

(iv) Delivery charges;

(v) Installation charges; and

(vi) The value of exempt personal property given to the purchaser where taxable and exempt personal property have been bundled together and sold by the seller as a single product or piece of merchandise;

(B) “Sales price” does not include:

(i) Discounts, including cash, term, or coupons that are not reimbursed by a third party that are allowed by a seller and taken by a purchaser on a sale;

(ii) Interest, financing, and carrying charges from credit extended on the sale of personal property or services, if the amount is separately stated on the invoice, bill of sale or similar document given to the purchaser;

(iii) Any taxes legally imposed directly on the consumer that are separately stated on the invoice, bill of sale or similar document given to the purchaser; and
(iv) Credit for any trade-in, as determined by § 67-6-510, that is separately stated on an invoice or similar billing document given to the purchaser;

(C) “Sales price” includes consideration received by the seller from third parties, if:

(i) The seller actually receives consideration from a party other than the purchaser, and the consideration is directly related to a price reduction or discount on the sale;

(ii) The seller has an obligation to pass the price reduction or discount through to the purchaser;

(iii) The amount of the consideration attributable to the sale is fixed and determinable by the seller at the time of the sale of the item to the purchaser; and

(iv) One of the following criteria is met:

(a) The purchaser presents a coupon, certificate or other documentation to the seller to claim a price reduction or discount, where the coupon, certificate or documentation is authorized, distributed or granted by a third party, with the understanding that the third party will reimburse any seller to whom the coupon, certificate or documentation is presented;

(b) The purchaser identifies itself to the seller as a member of a group or organization entitled to a price reduction or discount. A preferred customer card that is available to any patron does not constitute membership in such a group; or

(c) The price reduction or discount is identified as a third-party price reduction or discount on the invoice received by the purchaser, or on a coupon, certificate or other documentation presented by the purchaser;

(82) “School art supplies” means an item commonly used by a student in a course of study for artwork. For purposes of this chapter, the following is an all-inclusive list of “school art supplies”:

(A) Clay and glazes;

(B) Paintbrushes for artwork;

(C) Paints, acrylic, tempera, and oil;

(D) Sketch and drawing pads; and

(E) Watercolors;

(83) “School computer supplies” means an item commonly used by a student in a course of study in which a computer is used. For purposes of this chapter, the following is an all-inclusive list of “school computer supplies”:

(A) Computer printers;

(B) Computer storage media, diskettes, compact disks;

(C) Handheld electronic schedulers, except devices that are cellular phones;

(D) Personal digital assistants, except devices that are cellular phones; and

(E) Printer supplies for computers, printer paper, printer ink;

(84) “School instructional materials” means written material commonly used by a student in a course of study as a reference and to learn the subject being taught. For purposes of this chapter, the following is an all-inclusive list of “school instructional materials”:

(A) Reference books;
(B) Reference maps and globes;
(C) Textbooks; and
(D) Workbooks;

(85) “School supplies” means an item used by a student in a course of study. For purposes of this chapter, the following is an all-inclusive list of “school supplies”:
(A) Binders;
(B) Blackboard chalk;
(C) Book bags;
(D) Calculators;
(E) Cellophane tape;
(F) Compasses;
(G) Composition books;
(H) Crayons;
(I) Erasers;
(J) Folders, expandable, pocket, plastic and manila;
(K) Glue, paste, and paste sticks;
(L) Highlighters;
(M) Index cards;
(N) Index card boxes;
(O) Legal pads;
(P) Lunch boxes;
(Q) Markers;
(R) Notebooks;
(S) Paper, loose leaf ruled notebook paper, copy paper, graph paper, tracing paper, manila paper, colored paper, poster board, and construction paper;
(T) Pencil boxes and other school supply boxes;
(U) Pencil sharpeners;
(V) Pencils;
(W) Pens;
(X) Protractors;
(Y) Rulers;
(Z) Scissors; and
(AA) Writing tablets;

(86) “Service address” means the location of the telecommunications equipment to which a customer’s call is charged and from which the call originates or terminates, regardless of where the call is billed or paid. In the event this may not be known, service address means the origination point of the signal of the telecommunications service first identified by either the seller’s telecommunication system or in information received by the seller from its service provider, where the system used to transport the signal is not that of the seller. In the event that neither the location of the telecommunications equipment nor the origination point of the signal are known, service address means the location of the customer’s place of primary use;

(87) “Software” means computer software;

(88) “Specified digital products” means electronically transferred digital audio-visual works, digital audio works and digital books. For purposes of this subdivision (88), “electronically transferred” means obtained by the purchaser by means other than tangible storage media;

(89) “Sport or recreational equipment” means items designed for human use and worn in conjunction with an athletic or recreational activity that are
not suitable for general use;

(90) “Storage” means and includes any keeping or retention in this state of tangible personal property for use or consumption in this state, or for any purpose other than sale at retail in the regular course of business; provided, that temporary storage pending shipping or mailing of tangible personal property to nonresidents of Tennessee shall not constitute a taxable use in Tennessee;

(91)(A) “Tangible personal property” means personal property that can be seen, weighed, measured, felt, or touched, or that is in any other manner perceptible to the senses. “Tangible personal property” includes electricity, water, gas, steam, and prewritten computer software;

(B) “Tangible personal property” does not include signals broadcast over the airwaves;

(C) “Tangible personal property” does not include fiber-optic cable after it has become attached to a utility pole, building, or other structure or installed underground. Such fiber-optic cable is deemed realty for purposes of this chapter upon installation;

(92)(A) “Telecommunications service” means the electronic transmission, conveyance, or routing of voice, data, audio, video, or any other information or signals to a point, or between or among points. “Telecommunications service” includes such transmission, conveyance, or routing in which computer processing applications are used to act on the form, code or protocol of the content for purposes of transmission, conveyance or routing, without regard to whether such service is referred to as voice over internet protocol services or is classified by the federal communications commission as enhanced or value added;

(B) “Telecommunications service” does not include:

(i) Data processing and information services that allow data to be generated, acquired, stored, processed, or retrieved and delivered by electronic transmission to a purchaser, where such purchaser’s primary purpose for the underlying transaction is the processed data or information;

(ii) Installation or maintenance of wiring or equipment on a customer’s premises;

(iii) Tangible personal property;

(iv) Advertising including, but not limited to, directory advertising;

(v) Billing and collection services provided to third parties;

(vi) Internet access service;

(vii) Radio and television audio and video programming services, regardless of the medium, including the furnishing of transmission, conveyance and routing of such services by the programming service provider. Radio and television audio and video programming services shall include, but not be limited to, cable service, as defined in 47 U.S.C. § 522(6), and audio and video programming services delivered by commercial mobile radio service providers, as defined in 47 CFR 20.3;

(viii) Ancillary services; or

(ix) Digital products delivered electronically, including, but not limited to, computer software, music, video, reading materials or ringtones;

(93) “Textbook” means a printed book that contains systematically organized educational information that covers the primary objectives of a course of study. A textbook may contain stories and excerpts of popular fiction and
nonfiction writings, but does not include a book primarily published and
distributed for sale to the general public. The term “textbook” does not include
a computer or computer software;

(94) “Time-share estate” means an ownership or leasehold estate in prop-
erty devoted to a time-share fee, tenants in common, time span ownership,
interval ownership, and a time-share lease;

(95) “Tobacco” means cigarettes, cigars, chewing or pipe tobacco, or any
other item that contains tobacco;

(96) (A) “Use” means and includes the exercise of any right or power over
tangible personal property incident to the ownership thereof, except that it
does not include the sale at retail of that property in the regular course of
business;

(B) “Use” means the coming to rest in Tennessee of catalogues, advertis-
ing fliers, or other advertising publications distributed to residents of
Tennessee in interstate commerce; provided, that the labeling, temporary
storage, and other handling in connection with mailing or shipping of the
catalogues, advertising fliers and other advertising publications in inter-
state commerce to nonresidents of Tennessee shall not constitute a taxable
use in Tennessee; and

(C) “Use” also means and includes the consumption of any of the services
and amusements taxable under this chapter;

(97) “Use tax” includes the “use,” “consumption,” “distribution” and “stor-
age” as defined in this section;

(98) “Video game digital product” means the right to access and use
computer software that facilitates human interaction with a user interface to
generate visual feedback for amusement purposes, when possession of the
computer software is maintained by the seller or a third party, regardless of
whether the charge for the service is on a per use, per user, per license,
subscription, or some other basis;

(99) (A) “Video programming services” means programming provided by or
generally considered comparable to programming provided by a television
broadcast station and shall include cable television services sold by a
provider authorized pursuant to title 7, chapter 59, wireless cable television
services (multipoint distribution service/multichannel multipoint distri-
bution service) and video services provided through wireline facilities
located at least in part in the public rights-of-way without regard to
delivery technology, including internet protocol technology;

(B) “Video programming services” does not include any of the following:

(i) Digital products transferred electronically, including, but not lim-
ited to, software, ringtones, and reading materials such as books,
magazines, and newspapers;

(ii) Audio and video programming services provided by a commercial
mobile service provider as defined in 47 U.S.C. § 332(d);

(iii) Audio and video programming services provided as part of; or
incidental to, internet access service, such as, but not limited to, video
capable email; provided, that the services are not generally considered
comparable to programming provided by a television broadcast station;
and

(iv) Direct-to-home satellite television programming services; and

(100) “Workbook” means a printed booklet that contains problems and
exercises in which a student may directly write answers or responses to the
problems and exercises. The term “workbook” does not include a computer or computer software.

67-6-103. Deposit and allocation of receipts — Transportation equity trust fund — Other special allocations. [Effective until July 1, 2021. See the version effective on July 1, 2021.]

(a) The commissioner shall deposit promptly to the credit of the state treasurer in state depositories all moneys received by the commissioner under this chapter, and all such moneys shall be earmarked and allocated as follows:

(1) Twenty-nine and one hundred forty-one ten-thousandths percent (29.0141%) of such moneys shall be earmarked and allocated specifically and exclusively to the general fund;

(2) Sixty-five and nine hundred seventy ten-thousandths (65.0970%) of such moneys shall be earmarked and allocated specifically and exclusively to educational purposes; and

(3)(A) Four and six thousand thirty ten-thousandths percent (4.6030%) shall be appropriated to the several incorporated municipalities within this state to be allocated and distributed to them monthly by the commissioner of finance and administration, in the proportion as the population of each municipality bears to the aggregate population of all municipalities within the state, according to the latest federal census and other censuses authorized by law. Municipalities incorporated subsequent to the last decennial federal census shall, until the next decennial federal census, be eligible for an allotment, commencing on July 1, following incorporation, election and installation of officials, on the population basis determined under regulations of the department of economic and community development and certified by that office to the commissioner; provided, that an accurate census of population has been certified to the department of economic and community development by the municipality. Municipalities now participating in allocation shall continue to do so on the basis of their population determined according to law;

(B)(i) A municipality having a population of one thousand one hundred (1,100) or more persons, according to the 1970 federal census or any subsequent federal census, in which at least forty percent (40%) of the assessed valuation, as shown by the tax assessment rolls or books of the municipality, of the real estate in the municipality consists of hotels, motels, tourist courts accommodation, tourist shops and restaurants, is defined as a “premiere type tourist resort” for purposes of this chapter. As an alternative to and in lieu of the allocation prescribed in subdivision (a)(3)(A), a premiere type tourist resort may elect to receive four and six thousand thirty ten-thousandths percent (4.6030%) of the tax actually collected and remitted by dealers within the boundaries of such resort. Any distribution made to a premiere type tourist resort pursuant to such election shall be earmarked and paid from the general fund. If, however, any such payment is made to a premiere type tourist resort pursuant to the election, the amount that would have been received by such resort had the resort not exercised the election shall be earmarked and allocated to the general fund;

(ii) A municipality meeting the criteria set forth in subdivision (a)(3)(B)(i) and also owning a golf course and ski slope shall also receive
an amount equal to the amount distributed pursuant to subdivision (a)(3)(B)(i). Any distribution made to such a municipality shall be earmarked and paid from the general fund for the purpose of assisting in the retirement of the convention center obligations in connection with the acquisition, construction and operation of the convention center;

(iii) A municipality meeting the criteria set forth in subdivision (a)(3)(B)(i) and also containing within its boundaries a theme park of not less than eighty (80) acres shall also receive an amount equal to the distribution pursuant to subdivision (a)(3)(B)(i);

(iv)(a) A municipality meeting the criteria set forth in subdivision (a)(3)(B)(ii) shall also receive in addition to amounts authorized in this subsection (a) in the 1988-1989 fiscal year, an amount equal to fifty-six percent (56%) of the amount distributed in the 1986-1987 fiscal year pursuant to subdivision (a)(3)(B)(ii), and an amount equal to ninety percent (90%) of the amount distributed in the 1986-1987 fiscal year in subsequent years;

(b) A municipality meeting the criteria set forth in subdivision (a)(3)(B)(iii) shall also receive, in addition to amounts authorized in this subsection (a) in the 1988-1989 fiscal year, an amount equal to sixty percent (60%) of the amount distributed in the 1986-1987 fiscal year pursuant to subdivision (a)(3)(B)(iii), and an amount equal to ninety-six percent (96%) of the amount distributed in the 1986-1987 fiscal year in subsequent years;

(v)(a) The collective amounts paid under subdivisions (a)(3)(B)(i)-(iv) shall be limited to the collective amounts paid under such subdivisions for the 1999-2000 fiscal year; [Effective until July 1, 2021.]

(b) Subdivision (a)(3)(B)(v)(a) shall not apply in the 2017-2018 fiscal year through the 2020-2021 fiscal year. This subdivision (a)(3)(B)(v)(b) is repealed on July 1, 2021.

(C) Any municipality shall have the right to take not more than four (4) special censuses at its own expense at any time during the interim between the regular decennial federal census. Such right shall include the current decennium. Any such census shall be taken by the federal bureau of the census, or in a manner directed by and satisfactory to the department of economic and community development. The population of the municipality shall be revised in accordance with the special census for purposes of distribution of such funds, effective on the next July 1 following the certification of the census results by the federal bureau of the census or the department of economic and community development to the commissioner of finance and administration; the aggregate population shall likewise be adjusted in accordance with any such special census, effective the same date as provided in this subdivision (a)(3)(C);

(D) Any other such special census of the entire municipality taken in the same manner provided in this section, under any other law, shall be used for the distribution of such funds, and in that case, no additional special census shall be taken under this section;

(E) Before distributing moneys to incorporated municipalities from the sales tax, as provided for herein, the commissioner of finance and administration shall make a deduction therefrom monthly of a sum equal to one percent (1%) of the monthly allocation of the four and six thousand thirty ten-thousandths percent (4.6030%) of sales tax collections allocated
to incorporated municipalities. This sum, together with an appropriation per annum from the general fund of the state, shall be apportioned and transmitted to the University of Tennessee for use by the university in establishing and operating a municipal technical advisory service in its institute for public service, and shall be used for studies and research in municipal government, publications, educational conferences and attendance at such conferences and in furnishing technical, consultative and field services to municipalities in problems relating to fiscal administration, accounting, tax assessment and collection, law enforcement, improvements and public works, and in any and all matters relating to municipal government. This program shall be carried on in cooperation with and with the advice of cities and towns in the state acting through the Tennessee municipal league and its executive committee, which is recognized as their official agency or instrumentality;

(F)(i) A county ranking in the first quartile of county economic distress in the United States for fiscal year 2006, as determined pursuant to subdivision (a)(3)(F)(v) and bordering on, or crossed by, the Tennessee River, may elect to be a “Tennessee River resort district” for purposes of this chapter. A municipality within such county and located within three (3) miles of the nearest bank of the Tennessee River, may also elect to be a “Tennessee River resort district” for purposes of this chapter. Notwithstanding any other provision of law to the contrary, as an alternative to and in lieu of the allocation prescribed in subdivision (a)(3)(A), a Tennessee River resort district shall receive four and six thousand thirty ten-thousandths percent (4.6030%) of the tax actually collected and remitted by dealers within the boundaries of such district. Any distribution made to a Tennessee River resort district pursuant to such election shall be earmarked and paid from the general fund. If, however, any such payment is made to a Tennessee River resort district pursuant to the election, the amount that would have been received by such district had the district not exercised the election shall be earmarked and allocated to the general fund. This subdivision (a)(3)(F)(i) shall also apply in any county that has a population of less than ten thousand (10,000), according to the 2000 federal census or any subsequent federal census, and borders the Tennessee River and a county included within the Tennessee River resort district. This subdivision (a)(3)(F)(i) shall also apply in any county having a population of not less than twelve thousand three hundred sixty-nine (12,369) nor more than twelve thousand four hundred fifty (12,450) and in any county having a population of not less than seventeen thousand nine hundred (17,900) nor more than eighteen thousand (18,000), all according to the 2000 federal census or any subsequent federal census, and that border the Tennessee River;

(ii)(a) Subject to subdivision (a)(3)(F)(iv), a county, or municipality within a county, described in subdivision (a)(3)(F)(i) may elect Tennessee River resort district status by adopting a resolution or ordinance approved by a two-thirds (2/3) vote of the legislative body of the jurisdiction. A county, or municipality within a county, described in subdivision (a)(3)(F)(i) that has elected Tennessee River resort district status may repeal such election by adopting a resolution or ordinance approved by a two-thirds (2/3) vote of the legislative body of the
jurisdiction;

(b)(1) A county originally eligible to elect Tennessee River resort district status under chapter 212 of the Public Acts of 2005, and initially electing Tennessee River resort district status after August 1, 2007, may elect Tennessee River resort district status for purposes of this subdivision (a)(3)(F) only and not for the purposes of title 57, chapter 4, part 1, by including the following language in the electing resolution:

Notwithstanding the provisions of Tennessee Code Annotated, §§ 57-4-101(a)(18) and 57-4-102(36), to the contrary, _____ County shall not be considered a Tennessee River Resort District for purposes of Tennessee Code Annotated, Title 57, Chapter 4, Part 1.

(2) In order for the election to be effective, all eligible cities within the county must elect Tennessee River resort district status before the county makes the election. Municipalities having a population of not less than two thousand six hundred (2,600) nor more than two thousand seven hundred fifty (2,750), according to the 2000 federal census or any subsequent federal census, making the election as provided in this subdivision (a)(3)(F)(ii) shall not receive less in state shared taxes under this subdivision (a)(3) than the municipality would otherwise receive had it not made the election;

(c) The approval or nonapproval of a resolution or ordinance adopted pursuant to this subdivision (a)(3)(F)(ii) shall be proclaimed by the presiding officer of the jurisdiction. Within thirty (30) days of adopting the resolution or ordinance, the presiding officer of the jurisdiction shall send a certified copy of the ordinance or resolution to the secretary of state and the commissioner of revenue;

(iii) Notwithstanding any other provision of law to the contrary, of the revenue retained pursuant to an election under subdivision (a)(3)(F)(i), less the amount that would have been received by such district had the district not exercised the election, fifty percent (50%) shall be used exclusively for either the promotion and support of tourism in the jurisdiction or the promotion and support of tourism in conjunction with other jurisdictions so electing Tennessee River resort district status;

(iv) Tennessee River resort district status may be elected by both a county and a municipality within such county, subject to the following provisions:

(a) If the election occurs between January 1, 2006, and June 30, 2006, a municipality electing Tennessee River resort district status shall be entitled to the authorized percentage of tax actually collected and remitted by dealers within the boundaries of the municipality only. A county electing such status shall be entitled to the authorized percentage of tax actually collected and remitted by dealers within the boundaries of the county; provided, however, that the county shall only be entitled to receive such revenue outside the jurisdiction of any municipality electing Tennessee River resort district status located in the county; or

(b) If election occurs on and after July 1, 2006, a county electing Tennessee River resort district status prior to a nonelecting munici-
pality shall be entitled to the authorized percentage of tax actually collected and remitted by dealers within the boundaries of the county and within the boundaries of nonelecting municipalities. No nonelecting municipality shall later elect Tennessee River resort district status; provided, that a nonelecting municipality may elect such status prior to election of such status by the county and, in that event, tax collections would be distributed in accordance with subdivision (a)(3)(F)(iv)(a);

(v) Prior to July 1, 2005, the commissioner of economic and community development shall publish a map of those Tennessee counties that rank in the first quartile of county economic distress in the United States for fiscal year 2006 based on comparing the following indicators: three-year average unemployment, per-capita market income and poverty rate;

(vi) Notwithstanding any provision of this subdivision (a)(3)(F) to the contrary, the election provided in this subdivision (a)(3)(F) shall only be available to eligible counties and municipalities that make the election prior to July 1, 2008;

(4) Three thousand six hundred seventy-four ten-thousandths percent (0.3674%), or so much thereof as may be required, is appropriated to the department of revenue in addition to its regular appropriation to be expended by it in the administration and enforcement of this chapter; and

(5) Nine thousand one hundred eighty-five ten-thousandths percent (0.9185%) is appropriated to the sinking fund account to be used by the state funding board for the payment of principal and interest becoming due on state bonds issued by the state of Tennessee.

(b)(1) Notwithstanding the allocations provided for in subsection (a), all moneys received under this chapter from the sale, use, consumption, distribution, or storage for use or consumption of fuels used for aviation, railways, or water carriers on or after July 1, 1988, shall be deposited by the commissioner in a separate account to be known as the transportation equity trust fund. The funds in this account shall be used by the department of transportation for railways, aeronautics, and waterways related programs and activities. This subsection (b) does not supersede or affect former § 67-3-501 [repealed].

(2) It is declared to be the legislative intent that railways, aeronautics and waterways programs and operations are vital to the economic and social development of this state and as such should be considered an equal priority of the department in the administration of its programs.

(c)(1) Notwithstanding any law to the contrary, all revenue generated from the increase in the rate of sales and use tax from six percent (6%) to seven percent (7%) and from the tax levied at the rate of two and three quarters percent (2.75%) on the amount in excess of one thousand six hundred dollars ($1,600) but less than or equal to three thousand two hundred dollars ($3,200) on the sale or use of any single article of personal property pursuant to chapter 856, § 4 of the Public Acts of 2002 shall be paid into the state general fund and allocated exclusively for general state purposes.

(2) Notwithstanding any law to the contrary, all revenue generated from the one-half percent (0.5%) increase in the sales and use tax rate that became effective April 1, 1992, shall be deposited in the state general fund and earmarked for education purposes in kindergarten through grade
twelve (K-12). Revenue generated from one-half percent (0.5%) of the tax rate provided in § 67-6-228 shall continue to be deposited in the state general fund and earmarked for education purposes in kindergarten through grade twelve (K-12) regardless of whether the tax rate provided in § 67-6-228 is reduced below six percent (6%).

(d)(1)(A)(i) Notwithstanding the allocations provided for in subsection (a), if there exists in a municipality a sports authority organized pursuant to title 7, chapter 67, and if that sports authority has secured a major league professional baseball (American or National League), football (National Football League or Canadian Football League, or its successors or assigns), basketball (National Basketball Association), soccer (Major League Soccer), or major or minor league professional hockey (National Hockey League, or Central Hockey League or East Coast Hockey League) franchise for that municipality, and only if the municipality or any board or instrumentality of the municipality reimburses the state for any costs to reallocate apportionments of the tax revenue under this section, then an amount shall be apportioned and distributed to the municipality equal to the amount of state tax revenue derived from the sale of admissions to events of the major or minor league professional sports franchise and also the sale of food and drink sold on the premises of the sports facility in conjunction with those games, parking charges, and related services, as well as the sale by the major or minor league professional sports franchise within the county in which the games take place of authorized franchise goods and products associated with the franchise’s operations as a professional sports franchise. The amount distributed to the municipality shall be for the exclusive use of the sports authority, or comparable municipal agency formally designated by the municipality, in accordance with title 7, chapter 67.

(ii) If an indoor sports facility owned by a sports authority organized pursuant to title 7, chapter 67, in which a professional sports franchise is a tenant, exists in a county with a metropolitan form of government, then an amount shall be apportioned and distributed to the municipality equal to the amount of state tax revenue derived from the sale of admissions to all other events occurring at the indoor sports facility and from all other sales of food and drink and other authorized goods or products sold on the premises of the sports facility, parking charges, and related services. The amounts distributed to the municipality shall be for the exclusive use of the sports authority, or comparable municipal agency formally designated by the municipality, in accordance with title 7, chapter 67. Such amounts shall be used exclusively for the payment of, or the reimbursement of expenses associated with securing current, expanded, or new events for indoor sports facilities owned by a municipal agency formally designated by the municipality, in accordance with title 7, chapter 67.

(iii) Notwithstanding the allocations provided for in subsection (a), if a franchise for a minor league affiliate of a major league baseball team (American or National League) playing at the Class AA level or higher locates in a municipality in this state and if the municipality constructs a new stadium for the franchise, then at such time as the franchise begins operating in the new stadium, and for a period of thirty (30) years
thereafter, an amount shall be apportioned and distributed to the entity that is responsible for retirement of the debt on and maintenance of the stadium in the municipality equal to the amount of state and local tax revenue derived from the sale of admissions to games of the professional sports franchise, and also the sale of food and drink sold on the premises of the stadium used in conjunction with those games, parking charges, and related services, as well as the sale by the professional sports franchise, within the county in which the games take place, of authorized franchise goods and products associated with its operations as a professional sports franchise less local taxes collected in the year preceding the new stadium occupancy. The amount distributed to the municipality shall be for the exclusive use of the sports authority, or comparable municipal agency formally designated by the municipality, in accordance with title 7, chapter 67.

(iv) For the purpose of this subsection (d), “municipality” means any metropolitan government, incorporated city or county located in this state.

(v) Notwithstanding any provision of this subdivision (d)(1)(A) to the contrary, no portion of the revenue derived from the increase in the rate of sales and use tax allocated to educational purposes pursuant to chapter 529, § 9 of the Public Acts of 1992, and no portion of the revenue derived from the increase in the rate of sales and use tax from six percent (6%) to seven percent (7%) contained in chapter 856, § 4 of the Public Acts of 2002 shall be distributed to the municipality. The revenue shall continue to be allocated as provided in chapter 529 of the Public Acts of 1992 and chapter 856 of the Public Acts of 2002, respectively.

(B) In lieu of distribution to any municipality, amounts derived from a National Football League franchise shall be earmarked and allocated specifically and exclusively to the general fund. In all cases, any distribution to a municipality as provided for by this subsection (d) shall be limited to a period of thirty (30) years, which shall be concurrent with the time limitation established by subdivision (d)(2). Following the expiration of this thirty-year period, all amounts that would have otherwise been distributed to the municipality or retained in lieu of distribution shall be allocated as provided elsewhere without regard to this subsection (d).

(C) Notwithstanding the allocations provided in subsection (a), if there exists in a municipality in this state a sports authority organized pursuant to title 7, chapter 67, and if a new motor sports facility locates in that municipality, and if the sports authority issues bonds or notes and uses the proceeds to assist with the development of such motor sports facility, including, but not limited to, the construction of roads, streets, highways, curbs, bridges, flood control facilities, and utility services, such as water, sanitary sewer, electricity, gas and natural gas, and telecommunications for such facility, then at such time as the new motor sports facility begins operating, and for a period of thirty (30) years thereafter, an amount shall be apportioned and distributed to the sports authority of that municipality, or other entity that is responsible for the retirement of the debt evidenced by such bonds or notes, equal to the amount of state and local tax revenue derived from the sale of admissions to events at such facility, and also the sale of food and drinks sold on the premises of such facility used in conjunction with those events, parking charges, and related
services, as well as the sale at such facility of souvenirs, memorabilia, and other goods and products associated with the operation of the facility. Such amount distributed shall be for the exclusive use of the sports authority, or comparable municipal agency, formally designated by the municipality in accordance with title 7, chapter 67. Notwithstanding this section, a sports authority and the municipality in which it is located may enter into an agreement under which all or any portion of the local tax revenue may be paid to the municipality for its exclusive use. For the purposes of this subdivision (d)(1)(C), “municipality” means any incorporated city or county located in this state. This subdivision (d)(1)(C) shall only be applicable if the cost of the acquisition of real property for such new motor sports facility, together with the costs of constructing and equipping the facility, exceeds forty million dollars ($40,000,000), incurred after January 1, 1999. The state portion of the tax revenue shall be distributed to the sports authority only if, at the date of such distribution, the sports authority has outstanding indebtedness due on such bonds or notes described in this subdivision (d)(1)(C).

(D) Notwithstanding the allocations provided for in subsection (a), if a baseball and softball complex, comprised of at least seventeen (17) baseball and softball fields and designed to host both local league play, as well as regional and national youth baseball and softball tournaments, is constructed adjacent to a stadium used by a franchise for a minor league affiliate of a major league baseball team, American or National League, playing at the Class AA level or higher, with respect to which an apportionment and distribution is made pursuant to subdivision (d)(1)(A), then an amount shall be apportioned and distributed to the entity that is responsible for the retirement of the debt on such baseball and softball complex, equal to the amount of state and local tax revenue derived from the sale of admissions to events at the baseball and softball complex and from the sale of food and drink and other authorized goods or products sold on the premises of the baseball and softball complex in conjunction with those events. This apportionment and distribution shall continue until the debt on the baseball and softball complex is retired. Such apportionment and distribution shall continue in the event the adjacent stadium ceases to house a minor league affiliate of a major league baseball team playing at the Class AA level or higher. Notwithstanding any provision of this subdivision (d)(1)(D) to the contrary, no portion of the revenue derived from the increase in the rate of sales and use tax allocated to educational purposes pursuant to chapter 529, § 9 of the Public Acts of 1992, and no portion of the revenue derived from the increase in the rate of sales and use tax from six percent (6%) to seven percent (7%) contained in chapter 856, § 4 of the Public Acts of 2002 shall be apportioned and distributed pursuant to this subdivision (d)(1)(D). All such revenue shall continue to be allocated as provided in chapter 529 of the Public Acts of 1992, and chapter 856 of the Public Acts of 2002, respectively.

(E)(i) Notwithstanding the allocations provided for in subsection (a), if a new convention center that qualifies as a public use facility under title 7, chapter 88 is constructed in a county having a metropolitan form of government with a population of more than five hundred thousand (500,000), according to the 2000 federal census or any subsequent federal census, then an amount shall be apportioned and distributed to
the entity that is responsible for the retirement of the debt on the
convention center and ancillary facilities equal to the amount of state
and local tax revenue derived under this chapter from the sale of
admission, parking, food, drink and any other things or services subject
to tax under this chapter, if such sales occur on the premises of the
convention center or any related ancillary facilities, including, but not
limited to, any tourism, theatre, retail business or commercial office
space facilities or parking facilities. The apportionment and distribution
shall begin at the time that the convention center begins operations and
shall continue for thirty (30) years, or until the debt on the convention
center is retired, whichever is sooner.

(ii) In addition to the distribution provided in subdivision (d)(1)(E)(i),
if either one (1) or two (2) new hotels are constructed in connection with
the construction of the convention center, then an amount shall also be
apportioned and distributed to the entity that is responsible for the
retirement of the debt on the convention center and ancillary facilities
equal to the amount of state and local tax revenue derived under this
chapter from the sale of lodging, parking, food, drink and any other
things or services subject to tax under this chapter, if the sales occur on
the premises of the hotels. The apportionment and distribution shall
begin at the time that the convention center begins operations and shall
continue for thirty (30) years, or until the debt on the convention
center is retired, whichever is sooner. To be entitled to receive the distribution
of state and local tax revenue under this subdivision (d)(1)(E)(ii), the
entity responsible for the retirement of the debt on the convention
center must first file with the department of finance and administration
an application seeking certification that the construction of the hotels is
directly related to the construction of the convention center. The
department of finance and administration shall review the application
to confirm whether the hotels meet the requirements of this subdivision
(d)(1)(E)(ii). The department of finance and administration shall report
its determination to the department of revenue, which shall administer
this subdivision (d)(1)(E)(ii) accordingly.

(iii) In addition to the distribution provided in subdivisions
(d)(1)(E)(i) and (ii), if a hotel within the footprint of the convention
center, as determined by the commissioner of revenue and the commis-
sioner of economic and community development, undertakes a signifi-
cant capital improvement program in connection with the construction
of the convention center, then an amount shall also be apportioned and
distributed to the entity that is responsible for the retirement of the debt
on the convention center and ancillary facilities equal to the amount of
state and local tax revenue derived under this chapter from the sale of
lodging, parking, food, drink, and any other things or services subject to
tax under this chapter, if the sales occur on the premises of the hotel.
The apportionment and distribution shall begin at the time that the
significant capital improvement program is substantially completed and
shall continue for thirty (30) years, or until the debt on the convention
center is retired, whichever is sooner. To be entitled to receive the
distribution of state and local tax revenue under this subdivision
(d)(1)(E)(iii), the entity responsible for the retirement of the debt on the
convention center must first receive certification from the commissioner
of revenue and the commissioner of economic and community development, with the approval of the commissioner of finance and administration, that the capital improvement program is directly related to the construction of the convention center.

(iv) Notwithstanding any provision of this subdivision (d)(1)(E) to the contrary, no portion of the revenue derived from the increase in the rate of sales and use tax allocated to educational purposes pursuant to the chapter 529, § 9 of the Public Acts of 1992, and no portion of the revenue derived from the increase in the rate of sales and use tax from six percent (6%) to seven percent (7%) contained in chapter 856, § 4 of the Public Acts of 2002 shall be apportioned and distributed pursuant to this subdivision (d)(1)(E). All such revenue shall continue to be allocated as provided in chapter 529 of the Public Acts of 1992, and chapter 856 of the Public Acts of 2002, respectively.

(2) Any bonds issued relative to the construction of a sports facility shall not be issued for a term longer than thirty (30) years from the date the first game is played by the professional sports franchise in a municipality, as defined in subdivision (d)(1).

(e) Notwithstanding the provisions of this section to the contrary, revenue derived from taxes imposed by this chapter, except revenue allocated pursuant to subdivision (c)(2), shall be earmarked and allocated in accordance with title 7, chapter 88.

(f) Notwithstanding subsections (a)-(e), the state tax on fees or charges for subscription to, access to, or use of television programming or television services provided by a video programming service provider offered for public consumption on charges or fees in excess of fifteen dollars ($15.00) but less than twenty-seven dollars and fifty cents ($27.50) per month, shall be for state purposes only and shall be earmarked and allocated specifically and exclusively to the general fund. Any amounts derived from the sales tax on fees or charges for subscription to, access to, or use of television programming or television services provided by a video programming service provider offered for public consumption, in excess of twenty-seven dollars and fifty cents ($27.50) shall be taxed at the state rate of the tax levied on the sale of tangible personal property at retail by § 67-6-202 in accordance with part 2 of this chapter, as well as pursuant to the local option revenue act in part 7 of this chapter, and be distributed in accordance with this section. Counties and incorporated municipalities shall use funds in the same manner and for the same purposes as funds distributed pursuant to § 67-6-712.

(g) [Contingent on funding. See the Compiler's Notes.]

(1) Notwithstanding the allocations provided for in subsection (a), there shall be apportioned and distributed to any county in which there is a state park containing approximately six thousand five hundred (6,500) acres, of which approximately four thousand (4,000) acres are an impounded reservoir, a portion of which is owned by the Tennessee Valley authority, over which an easement has been given to the state and the state has leased or otherwise conveyed its rights to the property to such county for development, an amount equal to the amount of state and local sales taxes derived from sales occurring within such property. Such amount distributed to the county shall be exclusively for retirement of the indebtedness incurred by such county for development of such property, to the same extent that such county may pledge any revenues of the county.
(2)(A) Notwithstanding any provision of this subsection (g) to the contrary, no portion of the revenue derived from the increase in the rate of sales and use tax allocated to educational purposes, pursuant to chapter 529, § 9 of the Public Acts of 1992, and no portion of the revenue derived from the increase in the rate of sales and use tax from six percent (6%) to seven percent (7%), pursuant to chapter 856, § 4 of the Public Acts of 2002 shall be apportioned and distributed pursuant to this subsection (g). All such revenue shall continue to be allocated as provided in chapter 529, § 9 of the Public Acts of 1992, and chapter 856, § 4 of the Public Acts of 2002.

(B) Notwithstanding any provision of this subsection (g) to the contrary, prior to any annual distribution pursuant to subdivision (g)(1), an amount equal to the state sales and use taxes collected within such area in fiscal year 2004-2005 shall be deposited in the treasury and allocated as otherwise provided by law.

(3) Prior to the issuance of any bonds for development of property subject to this subsection (g), the county legislative body shall submit its plan for development to the executive committee of the state building commission for such committee's review and recommendation to the state building commission.

(h)(1) Notwithstanding the provisions of this section to the contrary, revenue derived from state taxes imposed by this chapter shall be earmarked and allocated in accordance with the Courthouse Square Revitalization Pilot Project Act of 2005, compiled in title 6, chapter 59.

(2) Notwithstanding a repeal of title 6, chapter 59, any municipality receiving an allocation of state sales tax revenue on June 1, 2015, pursuant to title 6, chapter 59, shall continue to receive the allocation of the revenue until June 30, 2028. The allocation shall equal the amount of revenue derived from the state tax imposed by this chapter on the sale or use of goods, products and services within the courthouse square revitalization zone. For purposes of this subdivision (h)(2), “courthouse square revitalization zone” has the same meaning provided in [former] § 6-59-102 and shall consist of the area that is included within the revitalization zone on June 1, 2015.

(3) No portion of the revenue derived from the increase in the rate of sales and use tax allocated to educational purposes, pursuant to chapter 529, § 9 of the Public Acts of 1992, and no portion of the revenue derived from the increase in the rate of sales and use tax from six percent (6%) to seven percent (7%), pursuant to chapter 856, § 4 of the Public Acts of 2002 shall be apportioned and distributed pursuant to this subsection (h). All such revenue shall continue to be allocated as provided in chapter 529 of the Public Acts of 1992, and chapter 856 of the Public Acts of 2002.

(i)(1) Notwithstanding the allocations provided for in subsection (a), if a new museum dedicated to coal mining is constructed in a county containing a spallation neutron source facility, then an amount shall be apportioned and distributed to the entity that is responsible for the retirement of the debt on the museum equal to the amount of state and local tax revenue derived under this chapter from the sale of admission, parking, food, drink and any other things or services subject to tax under this chapter, if the sales occur on the premises of the museum. The apportionment and distribution shall begin at the time that the museum begins operations and shall continue for thirty (30) years, or until the debt on the museum is retired, whichever is
(2)(A) In addition to the distribution provided in subdivision (i)(1), if a
new hotel is constructed in connection with the construction of the
museum and the hotel is located within one (1) mile of the museum's
entrance, then an amount shall also be apportioned and distributed to the
entity that is responsible for the retirement of the debt on the museum
equal to the amount of state and local tax revenue derived under this
chapter from the sale of lodging, parking, food, drink and any other things
or services subject to tax under this chapter, if the sales occur on the
premises of the hotel. The apportionment and distribution shall begin at
the time the museum begins operations and shall continue for thirty (30)
years, or until the debt on the museum is retired, whichever is sooner.

(B) To be entitled to receive the distribution of state and local tax
revenue under subdivision (i)(2)(A), the entity responsible for the retire-
ment of the debt on the museum must first file with the department of
finance and administration an application seeking certification that the
construction of the hotel is directly related to the construction of the
museum. The department of finance and administration shall review the
application to confirm whether the hotel meets the requirements of this
subdivision (i)(2). The department of finance and administration shall
report its determination to the department of revenue, which shall
administer this subdivision (i)(2) accordingly.

(3) Notwithstanding any provision of this subsection (i) to the contrary, no
portion of the revenue derived from the increase in the rate of sales and use
tax allocated to educational purposes pursuant to the chapter 529, § 9 of the
Public Acts of 1992, and no portion of the revenue derived from the increase
in the rate of sales and use tax from six percent (6%) to seven percent (7%)
contained in chapter 856, § 4 of the Public Acts of 2002, shall be apportioned
and distributed pursuant to this subsection (i). The revenue shall continue to
be allocated as provided in chapter 529 of the Public Acts of 1992, and
chapter 856 of the Public Acts of 2002, respectively.

(j) Notwithstanding this section and any other law to the contrary, there is
established a separate account in the local government fund to be known as the
county revenue partnership fund. The apportionment of revenues to the fund
and distributions from the fund shall be subject to the following provisions:

(1) Any apportionment of revenues to the county revenue partnership
fund shall be allocated only from the revenues apportioned to the state
general fund pursuant to subdivision (a)(1);  

(2) Apportionment of revenues to the county revenue partnership fund
may be made in any year pursuant to an allocation made in a specific dollar
amount in the general appropriations act, and no apportionment shall
otherwise be made to the fund; provided, however, that in fiscal years
2007-2008 and 2008-2009, no revenue shall be apportioned to the fund;

(3) The apportionment to and distributions from the county revenue
partnership fund in any fiscal year shall not exceed the amount distributed
to municipalities from the state sales tax pursuant to subdivision (a)(3)(A) in
the previous fiscal year;

(4) In any fiscal year in which revenues are apportioned to the county
revenue partnership fund, the revenue shall be allocated and distributed to
all counties and metropolitan governments in this state monthly by the
commissioner of finance and administration, in proportion as the population
of each county or metropolitan government bears to the aggregate population of the state, according to the latest federal census or other censuses authorized by law;

(5) The county legislative body shall, on an annual basis, direct the trustee with regard to allocating and depositing the revenue from this fund among the various funds of the county budget; and

(6) In the state budget document, the county revenue partnership fund shall be listed in the report of revenue sources and basis of apportionment, and the amount apportioned to the fund shall be stated in the distribution of revenues by fund for each year in the comparison statement of state revenues, regardless of whether any revenue is apportioned to the fund for a given fiscal year.

(k)(1) Notwithstanding the allocations provided for in subsection (a), if there exists a performing arts center that consists of four (4) or more auditoriums, has a total seating capacity of five thousand four hundred (5,400) or more, and is operated by an organization that has received a determination of exemption from the internal revenue service under Internal Revenue Code § 501(c)(3) (26 U.S.C. § 501(c)(3)), and if the performing arts center is located in facilities owned by the state or a political subdivision of the state, then an amount shall be apportioned and distributed to the entity that is responsible for operation and management of the performing arts center. A performing arts center may consist of two (2) or more performance venues with auditoriums located in two (2) or more buildings that are contiguous or in close proximity and are owned by the state or a political subdivision of the state. The amount apportioned and distributed pursuant to this subsection (k) shall be equal to the amount of state tax revenue derived under this chapter from the sale of tickets for admission to events held at the performing arts center; provided, however, that the apportionment and distribution shall be used exclusively for maintenance and improvement of the facilities in which the performing arts center is located, which shall include, but not be limited to, capital improvements, additions and renovations to the facilities and debt service on funds borrowed to pay for the improvements, additions and renovations. Debt service shall include principal and interest payments on existing and future debt obligations, including repayment to the exempt organization operating the facilities of funds advanced or loaned by the organization that were used or are used to pay the costs, in whole or in part, of the improvements, additions and renovations to the facilities.

(2) Notwithstanding subdivision (k)(1) to the contrary, no portion of the revenue derived from the increase in the rate of sales and use tax allocated to educational purposes pursuant to chapter 529, § 9 of the Public Acts of 1992, and no portion of the revenue derived from the increase in the rate of sales and use tax from six percent (6%) to seven percent (7%) contained in chapter 856, § 4 of the Public Acts of 2002 shall be apportioned and distributed pursuant to this subsection (k). The revenue shall continue to be allocated as provided in chapter 529 of the Public Acts of 1992 and chapter 856 of the Public Acts of 2002, respectively.

(l)(1) Notwithstanding the allocations in subsection (a), except as provided in subdivision (l)(2), state tax revenue collected from commercial breeders licensed under the Commercial Breeder Act, compiled in title 44, chapter 17, part 7 [expired], shall be allocated to the Commercial Breeder Act enforce-
(2) Notwithstanding subdivision (l)(1), no portion of the revenue derived from the increase in the rate of sales and use tax allocated to educational purposes pursuant to chapter 529, § 9 of the Public Acts of 1992, and no portion of the revenue derived from the increase in the rate of sales and use tax from six percent (6%) to seven percent (7%) contained in chapter 856, § 4 of the Public Acts of 2002 shall be allocated to the Commercial Breeder Act enforcement and recovery account. The revenue shall continue to be allocated as provided in chapter 529 of the Public Acts of 1992 and chapter 856 of the Public Acts of 2002, respectively.

(m)(1) Notwithstanding the allocations provided for in subsection (a), if a hotel or inn that is more than one hundred fifty (150) years old is owned by a municipality and operated by an organization that has received a determination of exemption from the internal revenue service under Internal Revenue Code § 501(c)(3) (26 U.S.C. § 501(c)(3)), then an amount shall be apportioned and distributed to the entity that is responsible for the retirement of the debt incurred in renovating the hotel or inn. The amount apportioned and distributed pursuant to this subsection (m) shall be equal to the amount of state tax revenue derived under this chapter from the sale of goods and services on the premises of the hotel or inn; provided, however, that the apportionment and distribution shall be used exclusively for the retirement of debt incurred prior to April 1, 2009, including any interest thereon, in renovating the hotel or inn and shall continue only until the debt is retired.

(2) Notwithstanding subdivision (m)(1) to the contrary, no portion of the revenue derived from the increase in the rate of sales and use tax allocated to educational purposes pursuant to chapter 529, § 9 of the Public Acts of 1992, and no portion of the revenue derived from the increase in the rate of sales and use tax from six percent (6%) to seven percent (7%) contained in chapter 856, § 4 of the Public Acts of 2002 shall be apportioned and distributed pursuant to this subsection (m). All such revenue shall continue to be allocated as provided in chapter 529 of the Public Acts of 1992 and chapter 856 of the Public Acts of 2002, respectively.

(n)(1) As used in this subsection (n), unless the context otherwise requires:

(A) “Best interests of the state” means a determination by the commissioner of revenue, with approval by the commissioner of economic and community development, that:

(i) The public improvements made within or adjacent to a mixed-use development are a result of the special allocation and distribution of state sales tax provided for in this subsection (n); and

(ii) The mixed-use development is a result of such public improvements;

(B) “Commercial development zone” means an area in which a mixed-use development is planned or located. To comprise a commercial development zone, the area:

(i) Must be located entirely within an eligible county;

(ii) Shall not exceed one thousand two hundred (1,200) acres; and

(iii) Must be located adjacent to a federally designated interstate highway;

(C) “Eligible county” means any county in which:

(i) At least twenty-five percent (25%) of the county consists of
federally-owned land;

(ii) At least thirty and three-fifths percent (30.6%) of the county’s population, eighteen (18) years of age and younger, lives in poverty as determined by the United States census bureau, small area income and poverty estimates (SAIPE) program, or any comparable successor program, within the three-year period immediately preceding establishment of the commercial development zone; and

(iii) The federal highway administration has approved an interstate exit in close proximity to the area proposed for a commercial development zone, and such approval was based on the need to stimulate local economic development opportunities;

(D) “Mixed-use development” means an area, located entirely within an eligible county, containing not less than five hundred (500) acres nor more than one thousand two hundred (1,200) acres and includes, but is not limited to, property with commercial uses; and

(E) “Public improvements” means roads, streets, sidewalks, utility services, such as electricity, gas, water and sanitary sewer, and related services, parking facilities, parks, and all other necessary or desirable improvements to be used by the public in connection with a commercial development zone.

(2) Notwithstanding the allocations provided for in subsection (a), if an eligible county has good reason to anticipate that a private entity is willing to plan and develop a mixed-use development; and if the commissioner of revenue, with approval by the commissioner of economic and community development, determines that the special allocation of state sales tax, as authorized by this subsection (n), is in the best interests of the state, then the county legislative body may adopt a resolution designating a commercial development zone for such mixed-use development; provided, however, no county shall contain more than one (1) commercial development zone; and provided further, however, the county legislative body must adopt such resolution on or before June 30, 2011. If the county legislative body duly adopts such resolution, and if the county or an industrial development board, pursuant to subdivision (n)(3), issues bonds payable in whole or part from the tax revenues described herein and uses the proceeds to finance any development or public improvements constructed within or adjacent to the commercial development zone, then an amount shall be apportioned and distributed to such county for the retirement of debt evidenced by such bonds. The amount apportioned and distributed to the county pursuant to this subsection (n) shall equal the amount of state tax revenue derived under this chapter from sales of items and services subject to tax pursuant to this chapter, if the sales occur within the commercial development zone. The apportionment and distribution of such revenue shall begin upon the receipt of a certificate of occupancy for the first retail business operating within the commercial development zone and shall continue for a period of thirty (30) years, or until the debt, including any refunding debt, relating to the commercial development zone is retired, whichever is sooner.

(3) An eligible county in which a commercial development zone is duly located is authorized to delegate to any industrial development corporation incorporated by the county or a municipality within the county the authority to issue revenue bonds to finance development or public improvements within or adjacent to a commercial development zone; provided, that the
county shall enter into an agreement with the industrial development corporation in which the county shall agree to promptly pay to the industrial development corporation the tax revenues described in this subsection (n). Upon receipt, such tax revenues shall be held in trust by the county for the benefit of the industrial development corporation.

(4) Notwithstanding any provision of subdivision (n)(2) to the contrary, no portion of the revenue derived from the increase in the rate of sales and use tax allocated to educational purposes pursuant to chapter 529, § 9 of the Public Acts of 1992, and no portion of the revenue derived from the increase in the rate of sales and use tax from six percent (6%) to seven percent (7%) contained in chapter 856, § 4 of the Public Acts of 2002 shall be apportioned and distributed pursuant to this subsection (n). The revenue shall continue to be allocated as provided in chapter 529 of the Public Acts of 1992 and chapter 856 of the Public Acts of 2002, respectively.

(o)(1) Notwithstanding the allocations provided for in subsection (a), if there exists a zoo or aquarium that is accredited by the Association of Zoos and Aquariums and has received and currently holds a determination of exemption from the Internal Revenue Service under Internal Revenue Code § 501(c)(3) (26 U.S.C. § 501(c)(3)), then an amount shall be apportioned and distributed to the zoo or aquarium equal to the amount of state tax revenue derived under this chapter from the sale of tangible personal property or amusements on the premises of the zoo or aquarium; provided, however, that such apportionment and distribution shall be used exclusively for the operation of the zoo or aquarium, including, but not limited to, capital projects.

(2) Notwithstanding subdivision (o)(1) to the contrary, no portion of the revenue derived from the increase in the rate of sales and use tax allocated to educational purposes pursuant to chapter 529, § 9 of the Public Acts of 1992, and no portion of the revenue derived from the increase in the rate of sales and use tax from six percent (6%) to seven percent (7%) contained in chapter 856, § 4 of the Public Acts of 2002 shall be apportioned and distributed pursuant to this subsection (o). The revenue shall continue to be allocated as provided in chapter 529 of the Public Acts of 1992 and chapter 856 of the Public Acts of 2002, respectively.

(p) Notwithstanding § 7-40-106 to the contrary, no portion of the revenue derived from the increase in the rate of sales and use tax allocated to educational purposes pursuant to Acts 1992, chapter 529, § 9, and no portion of the revenue derived from the increase in the rate of sales and use tax from six percent (6%) to seven percent (7%) contained in Acts 2002, chapter 856, § 4, shall be distributed to the municipality. The revenue shall continue to be allocated as provided in chapter 529 of the Public Acts of 1992 and chapter 856 of the Public Acts of 2002, respectively.

(q) Notwithstanding the allocations provided for in subsection (a) and § 67-6-710, all moneys received and identified by the commissioner as moneys paid by out-of-state dealers acting in compliance under this chapter with any rule filed with the secretary of state on or after October 1, 2016, and effective on or before January 1, 2017, to give effect to Chapter 789 of the Public Acts of 1988, shall be reported monthly by the commissioner and apportioned into special reserve accounts in the various funds that, pursuant to applicable statutes, share in the proceeds of sales tax collections. Interest earnings on the moneys collected shall be calculated by the division of accounts, department of
finance and administration, and allocated monthly to the various fund reserve accounts. Such moneys shall remain in these reserve accounts and shall not revert at the end of any fiscal year; provided, however, such moneys shall be earmarked, allocated and become available for appropriation as otherwise provided in this chapter upon certification by the attorney general and reporter of the happening of any of the following:

(1) The final resolution of any contested case brought before the commissioner under the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, or suit challenging application of any rule filed with the secretary of state on or after October 1, 2016, and effective on or before January 1, 2017, to give effect to Chapter 789 of the Public Acts of 1988;

(2) The effective date of a federal law enacted by the United States Congress to regulate the various states’ ability to require out-of-state dealers to collect the taxes imposed by this chapter, pursuant to its authority to regulate interstate commerce; or

(3) That no party has brought a contested case before the commissioner under the Uniform Administrative Procedures Act or a suit challenging application of any rule filed with the secretary of state on or after October 1, 2016, and effective on or before January 1, 2017, to give effect to Chapter 789 of the Public Acts of 1988; provided, however, that any certification under this subdivision (q)(3) shall not occur before June 30, 2018.

(r) [Effective on January 1, 2019 and effective until July 1, 2023.]

(1) Notwithstanding the allocations provided for in subsection (a), fifty percent (50%) of the event revenue from the state taxes collected under this chapter for privileges exercised in an event venue during an event period that would otherwise be deposited in the general fund and not otherwise be earmarked for educational purposes shall be deposited in the event tourism fund established by § 67-6-105.

(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 (r):

(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.

(s)(1) Notwithstanding the allocations provided for in subsection (a), if a new event center is to be constructed for use, in part, by a state university with an independent board of trustees in a county in which there is a population in excess of one hundred fifty thousand (150,000) in accordance with the 2010 federal census or the most recent subsequent census, and in which there is located, in whole or in part, a military base with enlisted active duty personnel in excess of twenty thousand (20,000) as of December 31, 2018, then an amount shall be apportioned and distributed to a public entity designated by the county that is responsible for the retirement of all or a portion of the original debt on such event center equal to the amount of any incremental state and local sales and use tax revenue, including any portion of local sales taxes that otherwise would be allocated for school
purposes, from the sale of food and drink and other authorized goods or products sold on the premises of the event center, ticket sales, parking charges, and related services on the premises of the event center. Any such incremental tax revenues shall be applied to the original debt service related to the event center, and shall not be applied to any debt issued for the purposes of refinancing the original debt. This apportionment and distribution shall continue until the date on which the original debt relating to the event center is retired, or until the expiration of thirty (30) years, whichever is sooner. For purposes of this subdivision (s)(1), an event center shall include the facility in which events are held and shall also include any and all ancillary facilities such as parking facilities adjacent to the facility in which events are held.

(2) Notwithstanding subdivision (s)(1) to the contrary, no portion of the revenue derived from the increase in the rate of sales and use tax allocated to educational purposes pursuant to chapter 529, § 9 of the Public Acts of 1992, and no portion of the revenue derived from the increase in the rate of sales and use tax from six percent (6%) to seven percent (7%) contained in chapter 856, § 4 of the Public Acts of 2002 shall be apportioned and distributed pursuant to subdivision (s)(1). The revenue shall continue to be allocated as provided in chapter 529 of the Public Acts of 1992 and chapter 856 of the Public Acts of 2002, respectively.

(t) Notwithstanding § 7-41-106 to the contrary, no portion of the revenue derived from the increase in the rate of sales and use tax allocated to educational purposes pursuant to Acts 1992, chapter 529, § 9, and no portion of the revenue derived from the increase in the rate of sales and use tax from six percent (6%) to seven percent (7%) contained in Acts 2002, chapter 856, § 4, shall be distributed to the municipality. The revenue must be allocated as provided in Acts 1992, chapter 529 and Acts 2002, chapter 856, respectively.

67-6-103. Deposit and allocation of receipts — Transportation equity trust fund — Other special allocations. [Effective on July 1, 2021. See the version effective until July 1, 2021.]

(a) The commissioner shall deposit promptly to the credit of the state treasurer in state depositories all moneys received by the commissioner under this chapter, and all such moneys shall be earmarked and allocated as follows:

(1) Twenty-nine and one hundred forty-one ten-thousandths percent (29.0141%) of such moneys shall be earmarked and allocated specifically and exclusively to the general fund;

(2) Sixty-five and nine hundred seventy ten-thousandths (65.0970%) of such moneys shall be earmarked and allocated specifically and exclusively to educational purposes; and

(3)(A) Four and six thousand thirty ten-thousandths percent (4.6030%) shall be appropriated to the several incorporated municipalities within this state to be allocated and distributed to them monthly by the commissioner of finance and administration, in the proportion as the population of each municipality bears to the aggregate population of all municipalities within the state, according to the latest federal census and other censuses authorized by law. Municipalities incorporated subsequent to the last decennial federal census shall, until the next decennial federal census, be eligible for an allotment, commencing on July 1, following incorporation, election and
installation of officials, on the population basis determined under regula-
tions of the department of economic and community development and
certified by that office to the commissioner; provided, that an accurate
census of population has been certified to the department of economic and
community development by the municipality. Municipalities now partici-
pating in allocation shall continue to do so on the basis of their population
determined according to law;

(B)(i) A municipality having a population of one thousand one hundred
(1,100) or more persons, according to the 1970 federal census or any
subsequent federal census, in which at least forty percent (40%) of the
assessed valuation, as shown by the tax assessment rolls or books of the
municipality, of the real estate in the municipality consists of hotels,
motels, tourist courts accommodation, tourist shops and restaurants, is
defined as a “premiere type tourist resort” for purposes of this chapter. As
an alternative to and in lieu of the allocation prescribed in subdivision
(a)(3)(A), a premiere type tourist resort may elect to receive four and six
thousand thirty ten-thousandths percent (4.6030%) of the tax actually
collected and remitted by dealers within the boundaries of such resort.
Any distribution made to a premiere type tourist resort pursuant to such
election shall be earmarked and paid from the general fund. If, however,
any such payment is made to a premiere type tourist resort pursuant to
the election, the amount that would have been received by such resort had
the resort not exercised the election shall be earmarked and allocated to
the general fund;

(ii) A municipality meeting the criteria set forth in subdivision
(a)(3)(B)(i) and also owning a golf course and ski slope shall also receive
an amount equal to the amount distributed pursuant to subdivision
(a)(3)(B)(i). Any distribution made to such a municipality shall be
earmarked and paid from the general fund for the purpose of assisting in
the retirement of the convention center obligations in connection with the
acquisition, construction and operation of the convention center;

(iii) A municipality meeting the criteria set forth in subdivision
(a)(3)(B)(i) and also containing within its boundaries a theme park of not
less than eighty (80) acres shall also receive an amount equal to the
distribution pursuant to subdivision (a)(3)(B)(i);

(iv)(a) A municipality meeting the criteria set forth in subdivision
(a)(3)(B)(i) shall also receive in addition to amounts authorized in this
subsection (a) in the 1988-1989 fiscal year, an amount equal to fifty-six
percent (56%) of the amount distributed in the 1986-1987 fiscal year
pursuant to subdivision (a)(3)(B)(i), and an amount equal to ninety
percent (90%) of the amount distributed in the 1986-1987 fiscal year in
subsequent years;

(b) A municipality meeting the criteria set forth in subdivision
(a)(3)(B)(iii) shall also receive, in addition to amounts authorized in this
subsection (a) in the 1988-1989 fiscal year, an amount equal to sixty
percent (60%) of the amount distributed in the 1986-1987 fiscal year
pursuant to subdivision (a)(3)(B)(iii), and an amount equal to ninety-six percent (96%) of the amount distributed in the 1986-1987
fiscal year in subsequent years;

(v)(a) The collective amounts paid under subdivisions (a)(3)(B)(i)-(iv)
shall be limited to the collective amounts paid under such subdivisions
for the 1999-2000 fiscal year;[Effective until July 1, 2021.](b)


(C) Any municipality shall have the right to take not more than four (4) special censuses at its own expense at any time during the interim between the regular decennial federal census. Such right shall include the current decennium. Any such census shall be taken by the federal bureau of the census, or in a manner directed by and satisfactory to the department of economic and community development. The population of the municipality shall be revised in accordance with the special census for purposes of distribution of such funds, effective on the next July 1 following the certification of the census results by the federal bureau of the census or the department of economic and community development to the commissioner of finance and administration; the aggregate population shall likewise be adjusted in accordance with any such special census, effective the same date as provided in this subdivision (a)(3)(C);

(D) Any other such special census of the entire municipality taken in the same manner provided in this section, under any other law, shall be used for the distribution of such funds, and in that case, no additional special census shall be taken under this section;

(E) Before distributing moneys to incorporated municipalities from the sales tax, as provided for herein, the commissioner of finance and administration shall make a deduction therefrom monthly of a sum equal to one percent (1%) of the monthly allocation of the four and six thousand thirty ten-thousandths percent (4.6030%) of sales tax collections allocated to incorporated municipalities. This sum, together with an appropriation per annum from the general fund of the state, shall be apportioned and transmitted to the University of Tennessee for use by the university in establishing and operating a municipal technical advisory service in its institute for public service, and shall be used for studies and research in municipal government, publications, educational conferences and attendance at such conferences and in furnishing technical, consultative and field services to municipalities in problems relating to fiscal administration, accounting, tax assessment and collection, law enforcement, improvements and public works, and in any and all matters relating to municipal government. This program shall be carried on in cooperation with and with the advice of cities and towns in the state acting through the Tennessee municipal league and its executive committee, which is recognized as their official agency or instrumentality;

(F)(i) A county ranking in the first quartile of county economic distress in the United States for fiscal year 2006, as determined pursuant to subdivision (a)(3)(F)(v) and bordering on, or crossed by, the Tennessee River, may elect to be a “Tennessee River resort district” for purposes of this chapter. A municipality within such county and located within three (3) miles of the nearest bank of the Tennessee River, may also elect to be a “Tennessee River resort district” for purposes of this chapter. Notwithstanding any other provision of law to the contrary, as an alternative to and in lieu of the allocation prescribed in subdivision (a)(3)(A), a Tennessee River resort district shall receive four and six thousand thirty ten-thousandths percent (4.6030%) of the tax actually collected and
remitted by dealers within the boundaries of such district. Any distribution
made to a Tennessee River resort district pursuant to such election
shall be earmarked and paid from the general fund. If, however, any such
payment is made to a Tennessee River resort district pursuant to the
election, the amount that would have been received by such district had
the district not exercised the election shall be earmarked and allocated to
the general fund. This subdivision (a)(3)(F)(i) shall also apply in any
county that has a population of less than ten thousand (10,000),
according to the 2000 federal census or any subsequent federal census,
and borders the Tennessee River and a county included within the
Tennessee River resort district. This subdivision (a)(3)(F)(i) shall also
apply in any county having a population of not less than twelve thousand
three hundred sixty-nine (12,369) nor more than twelve thousand four
hundred fifty (12,450) and in any county having a population of not less
than seventeen thousand nine hundred (17,900) nor more than eighteen
thousand (18,000), all according to the 2000 federal census or any
subsequent federal census, and that border the Tennessee River;
(ii)(a) Subject to subdivision (a)(3)(F)(iv), a county, or municipality
within a county, described in subdivision (a)(3)(F)(i) may elect Tennes-
see River resort district status by adopting a resolution or ordinance
approved by a two-thirds (%) vote of the legislative body of the
jurisdiction. A county, or municipality within a county, described in
subdivision (a)(3)(F)(i) that has elected Tennessee River resort district
status may repeal such election by adopting a resolution or ordinance
approved by a two-thirds (%) vote of the legislative body of the
jurisdiction;
(b)(1) A county originally eligible to elect Tennessee River resort
district status under chapter 212 of the Public Acts of 2005, and
initially electing Tennessee River resort district status after August
1, 2007, may elect Tennessee River resort district status for purposes
of this subdivision (a)(3)(F) only and not for the purposes of title 57,
chapter 4, part 1, by including the following language in the electing
resolution:
Notwithstanding the provisions of Tennessee Code Annotated,
§§ 57-4-101(a)(18) and 57-4-102(36), to the contrary, _____ County
shall not be considered a Tennessee River Resort District for pur-
poses of Tennessee Code Annotated, Title 57, Chapter 4, Part 1.
(2) In order for the election to be effective, all eligible cities within
the county must elect Tennessee River resort district status before the
county makes the election. Municipalities having a population of not
less than two thousand six hundred (2,600) nor more than two
thousand seven hundred fifty (2,750), according to the 2000 federal
census or any subsequent federal census, making the election as
provided in this subdivision (a)(3)(F)(ii) shall not receive less in state
shared taxes under this subdivision (a)(3) than the municipality
would otherwise receive had it not made the election;
(c) The approval or nonapproval of a resolution or ordinance
adopted pursuant to this subdivision (a)(3)(F)(ii) shall be proclaimed
by the presiding officer of the jurisdiction. Within thirty (30) days of
adopting the resolution or ordinance, the presiding officer of the
jurisdiction shall send a certified copy of the ordinance or resolution to
the secretary of state and the commissioner of revenue;

(iii) Notwithstanding any other provision of law to the contrary, of the revenue retained pursuant to an election under subdivision (a)(3)(F)(i), less the amount that would have been received by such district had the district not exercised the election, fifty percent (50%) shall be used exclusively for either the promotion and support of tourism in the jurisdiction or the promotion and support of tourism in conjunction with other jurisdictions so electing Tennessee River resort district status;

(ii) Tennessee River resort district status may be elected by both a county and a municipality within such county, subject to the following provisions:

(a) If the election occurs between January 1, 2006, and June 30, 2006, a municipality electing Tennessee River resort district status shall be entitled to the authorized percentage of tax actually collected and remitted by dealers within the boundaries of the municipality only. A county electing such status shall be entitled to the authorized percentage of tax actually collected and remitted by dealers within the boundaries of the county; provided, however, that the county shall only be entitled to receive such revenue outside the jurisdiction of any municipality electing Tennessee River resort district status located in the county; or

(b) If election occurs on and after July 1, 2006, a county electing Tennessee River resort district status prior to a nonelecting municipality shall be entitled to the authorized percentage of tax actually collected and remitted by dealers within the boundaries of the county and within the boundaries of nonelecting municipalities. No nonelecting municipality may elect such status prior to election of such status by the county and, in that event, tax collections would be distributed in accordance with subdivision (a)(3)(F)(iv)(a);

(v) Prior to July 1, 2005, the commissioner of economic and community development shall publish a map of those Tennessee counties that rank in the first quartile of county economic distress in the United States for fiscal year 2006 based on comparing the following indicators: three-year average unemployment, per-capita market income and poverty rate;

(vi) Notwithstanding any provision of this subdivision (a)(3)(F) to the contrary, the election provided in this subdivision (a)(3)(F) shall only be available to eligible counties and municipalities that make the election prior to July 1, 2008;

(4) Three thousand six hundred seventy-four ten-thousandths percent (0.3674%), or so much thereof as may be required, is appropriated to the department of revenue in addition to its regular appropriation to be expended by it in the administration and enforcement of this chapter; and

(5) Nine thousand one hundred eighty-five ten-thousandths percent (0.9185%) is appropriated to the sinking fund account to be used by the state funding board for the payment of principal and interest becoming due on state bonds issued by the state of Tennessee.

(b)(1) Notwithstanding the allocations provided for in subsection (a), all moneys received under this chapter from the sale, use, consumption, distri-
bution, or storage for use or consumption of fuels used for aviation, railways, or water carriers on or after July 1, 1988, shall be deposited by the commissioner in a separate account to be known as the transportation equity trust fund. The funds in this account shall be used by the department of transportation for railways, aeronautics, and waterways related programs and activities. This subsection (b) does not supersede or affect former § 67-3-501 [repealed].

(2) It is declared to be the legislative intent that railways, aeronautics and waterways programs and operations are vital to the economic and social development of this state and as such should be considered an equal priority of the department in the administration of its programs.

(c)(1) Notwithstanding any law to the contrary, all revenue generated from the increase in the rate of sales and use tax from six percent (6%) to seven percent (7%) and from the tax levied at the rate of two and three quarters percent (2.75%) on the amount in excess of one thousand six hundred dollars ($1,600) but less than or equal to three thousand two hundred dollars ($3,200) on the sale or use of any single article of personal property pursuant to chapter 856, § 4 of the Public Acts of 2002 shall be paid into the state general fund and allocated exclusively for general state purposes.

(2) Notwithstanding any law to the contrary, all revenue generated from the one-half percent (0.5%) increase in the sales and use tax rate that became effective April 1, 1992, shall be deposited in the state general fund and earmarked for education purposes in kindergarten through grade twelve (K-12). Revenue generated from one-half percent (0.5%) of the tax rate provided in § 67-6-228 shall continue to be deposited in the state general fund and earmarked for education purposes in kindergarten through grade twelve (K-12) regardless of whether the tax rate provided in § 67-6-228 is reduced below six percent (6%).

(d)(1)(A)(i) Notwithstanding the allocations provided for in subsection (a), if there exists in a municipality a sports authority organized pursuant to title 7, chapter 67, and if that sports authority has secured a major league professional baseball (American or National League), football (National Football League or Canadian Football League, or its successors or assigns), basketball (National Basketball Association), soccer (Major League Soccer), or major or minor league professional hockey (National Hockey League, or Central Hockey League or East Coast Hockey League) franchise for that municipality, and only if the municipality or any board or instrumentality of the municipality reimburses the state for any costs to reallocate apportionments of the tax revenue under this section, then an amount shall be apportioned and distributed to the municipality equal to the amount of state tax revenue derived from the sale of admissions to events of the major or minor league professional sports franchise and also the sale of food and drink sold on the premises of the sports facility in conjunction with those games, parking charges, and related services, as well as the sale by the major or minor league professional sports franchise within the county in which the games take place of authorized franchise goods and products associated with the franchise’s operations as a professional sports franchise. The amount distributed to the municipality shall be for the exclusive use of the sports authority, or comparable municipal agency formally designated by the municipality, in accordance with title 7, chapter 67.
(ii) If an indoor sports facility owned by a sports authority organized pursuant to title 7, chapter 67, in which a professional sports franchise is a tenant, exists in a county with a metropolitan form of government, then an amount shall be apportioned and distributed to the municipality equal to the amount of state tax revenue derived from the sale of admissions to all other events occurring at the indoor sports facility and from all other sales of food and drink and other authorized goods or products sold on the premises of the sports facility, parking charges, and related services. The amounts distributed to the municipality shall be for the exclusive use of the sports authority, or comparable municipal agency formally designated by the municipality, in accordance with title 7, chapter 67. Such amounts shall be used exclusively for the payment of, or the reimbursement of expenses associated with securing current, expanded, or new events for indoor sports facilities owned by a municipal agency formally designated by the municipality, in accordance with title 7, chapter 67.

(iii) Notwithstanding the allocations provided for in subsection (a), if a franchise for a minor league affiliate of a major league baseball team (American or National League) playing at the Class AA level or higher locates in a municipality in this state and if the municipality constructs a new stadium for the franchise, then at such time as the franchise begins operating in the new stadium, and for a period of thirty (30) years thereafter, an amount shall be apportioned and distributed to the entity that is responsible for retirement of the debt on and maintenance of the stadium in the municipality equal to the amount of state and local tax revenue derived from the sale of admissions to games of the professional sports franchise, and also the sale of food and drink sold on the premises of the stadium used in conjunction with those games, parking charges, and related services, as well as the sale by the professional sports franchise, within the county in which the games take place, of authorized franchise goods and products associated with its operations as a professional sports franchise less local taxes collected in the year preceding the new stadium occupancy. The amount distributed to the municipality shall be for the exclusive use of the sports authority, or comparable municipal agency formally designated by the municipality, in accordance with title 7, chapter 67.

(iv) For the purpose of this subsection (d), “municipality” means any metropolitan government, incorporated city or county located in this state.

(v) Notwithstanding any provision of this subdivision (d)(1)(A) to the contrary, no portion of the revenue derived from the increase in the rate of sales and use tax allocated to educational purposes pursuant to chapter 529, § 9 of the Public Acts of 1992, and no portion of the revenue derived from the increase in the rate of sales and use tax from six percent (6%) to seven percent (7%) contained in chapter 856, § 4 of the Public Acts of 2002 shall be distributed to the municipality. The revenue shall continue to be allocated as provided in chapter 529 of the Public Acts of 1992 and chapter 856 of the Public Acts of 2002, respectively.

(B) In lieu of distribution to any municipality, amounts derived from a National Football League franchise shall be earmarked and allocated specifically and exclusively to the general fund. In all cases, any distribu-
ation to a municipality as provided for by this subsection (d) shall be limited to a period of thirty (30) years, which shall be concurrent with the time limitation established by subdivision (d)(2). Following the expiration of this thirty-year period, all amounts that would have otherwise been distributed to the municipality or retained in lieu of distribution shall be allocated as provided elsewhere without regard to this subsection (d).

(C) Notwithstanding the allocations provided in subsection (a), if there exists in a municipality in this state a sports authority organized pursuant to title 7, chapter 67, and if a new motor sports facility locates in that municipality, and if the sports authority issues bonds or notes and uses the proceeds to assist with the development of such motor sports facility, including, but not limited to, the construction of roads, streets, highways, curbs, bridges, flood control facilities, and utility services, such as water, sanitary sewer, electricity, gas and natural gas, and telecommunications for such facility, then at such time as the new motor sports facility begins operating, and for a period of thirty (30) years thereafter, an amount shall be apportioned and distributed to the sports authority of that municipality, or other entity that is responsible for the retirement of the debt evidenced by such bonds or notes, equal to the amount of state and local tax revenue derived from the sale of admissions to events at such facility, and also the sale of food and drinks sold on the premises of such facility used in conjunction with those events, parking charges, and related services, as well as the sale at such facility of souvenirs, memorabilia, and other goods and products associated with the operation of the facility. Such amount distributed shall be for the exclusive use of the sports authority, or comparable municipal agency, formally designated by the municipality in accordance with title 7, chapter 67. Notwithstanding this section, a sports authority and the municipality in which it is located may enter into an agreement under which all or any portion of the local tax revenue may be paid to the municipality for its exclusive use. For the purposes of this subdivision (d)(1)(C), “municipality” means any incorporated city or county located in this state. This subdivision (d)(1)(C) shall only be applicable if the cost of the acquisition of real property for such new motor sports facility, together with the costs of constructing and equipping the facility, exceeds forty million dollars ($40,000,000), incurred after January 1, 1999. The state portion of the tax revenue shall be distributed to the sports authority only if, at the date of such distribution, the sports authority has outstanding indebtedness due on such bonds or notes described in this subdivision (d)(1)(C).

(D) Notwithstanding the allocations provided for in subsection (a), if a baseball and softball complex, comprised of at least seventeen (17) baseball and softball fields and designed to host both local league play, as well as regional and national youth baseball and softball tournaments, is constructed adjacent to a stadium used by a franchise for a minor league affiliate of a major league baseball team, American or National League, playing at the Class AA level or higher, with respect to which an apportionment and distribution is made pursuant to subdivision (d)(1)(A), then an amount shall be apportioned and distributed to the entity that is responsible for the retirement of the debt on such baseball and softball complex, equal to the amount of state and local tax revenue derived from the sale of admissions to events at the baseball and softball complex and
from the sale of food and drink and other authorized goods or products sold on the premises of the baseball and softball complex in conjunction with those events. This apportionment and distribution shall continue until the debt on the baseball and softball complex is retired. Such apportionment and distribution shall continue in the event the adjacent stadium ceases to house a minor league affiliate of a major league baseball team playing at the Class AA level or higher. Notwithstanding any provision of this subdivision (d)(1)(D) to the contrary, no portion of the revenue derived from the increase in the rate of sales and use tax allocated to educational purposes pursuant to chapter 529, § 9 of the Public Acts of 1992, and no portion of the revenue derived from the increase in the rate of sales and use tax from six percent (6%) to seven percent (7%) contained in chapter 856, § 4 of the Public Acts of 2002 shall be apportioned and distributed pursuant to this subdivision (d)(1)(D). All such revenue shall continue to be allocated as provided in chapter 529 of the Public Acts of 1992 and chapter 856 of the Public Acts of 2002, respectively.

(E)(i) Notwithstanding the allocations provided for in subsection (a), if a new convention center that qualifies as a public use facility under title 7, chapter 88 is constructed in a county having a metropolitan form of government with a population of more than five hundred thousand (500,000), according to the 2000 federal census or any subsequent federal census, then an amount shall be apportioned and distributed to the entity that is responsible for the retirement of the debt on the convention center and ancillary facilities equal to the amount of state and local tax revenue derived under this chapter from the sale of admission, parking, food, drink and any other things or services subject to tax under this chapter, if such sales occur on the premises of the convention center or any related ancillary facilities, including, but not limited to, any tourism, theatre, retail business or commercial office space facilities or parking facilities. The apportionment and distribution shall begin at the time that the convention center begins operations and shall continue for thirty (30) years, or until the debt on the convention center is retired, whichever is sooner.

(ii) In addition to the distribution provided in subdivision (d)(1)(E)(i), if either one (1) or two (2) new hotels are constructed in connection with the construction of the convention center, then an amount shall also be apportioned and distributed to the entity that is responsible for the retirement of the debt on the convention center and ancillary facilities equal to the amount of state and local tax revenue derived under this chapter from the sale of lodging, parking, food, drink and any other things or services subject to tax under this chapter, if the sales occur on the premises of the hotels. The apportionment and distribution shall begin at the time that the convention center begins operations and shall continue for thirty (30) years, or until the debt on the convention center is retired, whichever is sooner. To be entitled to receive the distribution of state and local tax revenue under this subdivision (d)(1)(E)(ii), the entity responsible for the retirement of the debt on the convention center must first file with the department of finance and administration an application seeking certification that the construction of the hotels is directly related to the construction of the convention center. The department of finance and administration shall review the application to confirm
whether the hotels meet the requirements of this subdivision (d)(1)(E)(ii). The department of finance and administration shall report its determination to the department of revenue, which shall administer this subdivision (d)(1)(E)(ii) accordingly.

(iii) In addition to the distribution provided in subdivisions (d)(1)(E)(i) and (ii), if a hotel within the footprint of the convention center, as determined by the commissioner of revenue and the commissioner of economic and community development, undertakes a significant capital improvement program in connection with the construction of the convention center, then an amount shall also be apportioned and distributed to the entity that is responsible for the retirement of the debt on the convention center and ancillary facilities equal to the amount of state and local tax revenue derived under this chapter from the sale of lodging, parking, food, drink, and any other things or services subject to tax under this chapter, if the sales occur on the premises of the hotel. The apportionment and distribution shall begin at the time that the significant capital improvement program is substantially completed and shall continue for thirty (30) years, or until the debt on the convention center is retired, whichever is sooner. To be entitled to receive the distribution of state and local tax revenue under this subdivision (d)(1)(E)(iii), the entity responsible for the retirement of the debt on the convention center must first receive certification from the commissioner of revenue and the commissioner of economic and community development, with the approval of the commissioner of finance and administration, that the capital improvement program is directly related to the construction of the convention center.

(iv) Notwithstanding any provision of this subdivision (d)(1)(E) to the contrary, no portion of the revenue derived from the increase in the rate of sales and use tax allocated to educational purposes pursuant to the chapter 529, § 9 of the Public Acts of 1992, and no portion of the revenue derived from the increase in the rate of sales and use tax from six percent (6%) to seven percent (7%) contained in chapter 856, § 4 of the Public Acts of 2002 shall be apportioned and distributed pursuant to this subdivision (d)(1)(E). All such revenue shall continue to be allocated as provided in chapter 529 of the Public Acts of 1992 and chapter 856 of the Public Acts of 2002, respectively.

(2) Any bonds issued relative to the construction of a sports facility shall not be issued for a term longer than thirty (30) years from the date the first game is played by the professional sports franchise in a municipality, as defined in subdivision (d)(1).

(e) Notwithstanding the provisions of this section to the contrary, revenue derived from taxes imposed by this chapter, except revenue allocated pursuant to subdivision (c)(2), shall be earmarked and allocated in accordance with title 7, chapter 88.

(f) [Deleted by 2007 amendment, effective July 1, 2019.]

(g) The state sales tax received under this chapter from interstate telecommunications sold to businesses shall be distributed as follows:

1. The revenue from a rate equal to four percent (4%) of tax shall be deposited in the telecommunications ad valorem tax reduction fund created by § 67-6-222 and shall be determined based on data or information the commissioner deems relevant; and
(2) Other revenue shall be deposited in the state general fund and allocated pursuant to subsections (a) and (c).

(h) [Contingent on funding. See the Compiler’s Notes.]

(1) Notwithstanding the allocations provided for in subsection (a), there shall be apportioned and distributed to any county in which there is a state park containing approximately six thousand five hundred (6,500) acres, of which approximately four thousand (4,000) acres are an impounded reservoir, a portion of which is owned by the Tennessee Valley authority, over which an easement has been given to the state and the state has leased or otherwise conveyed its rights to the property to such county for development, an amount equal to the amount of state and local sales taxes derived from sales occurring within such property. Such amount distributed to the county shall be exclusively for retirement of the indebtedness incurred by such county for development of such property, to the same extent that such county may pledge any revenues of the county.

(2)(A) Notwithstanding any provision of this subsection (h) to the contrary, no portion of the revenue derived from the increase in the rate of sales and use tax allocated to educational purposes, pursuant to chapter 529, § 9 of the Public Acts of 1992, and no portion of the revenue derived from the increase in the rate of sales and use tax from six percent (6%) to seven percent (7%), pursuant to chapter 856, § 4 of the Public Acts of 2002 shall be apportioned and distributed pursuant to this subsection (h). All such revenue shall continue to be allocated as provided in chapter 529, § 9 of the Public Acts of 1992 and chapter 856, § 4 of the Public Acts of 2002.

(B) Notwithstanding any provision of this subsection (h) to the contrary, prior to any annual distribution pursuant to subdivision (h)(1), an amount equal to the state sales and use taxes collected within such area in fiscal year 2004-2005 shall be deposited in the treasury and allocated as otherwise provided by law.

(3) Prior to the issuance of any bonds for development of property subject to this subsection (h), the county legislative body shall submit its plan for development to the executive committee of the state building commission for such committee's review and recommendation to the state building commission.

(i)(1) Notwithstanding the provisions of this section to the contrary, revenue derived from state taxes imposed by this chapter shall be earmarked and allocated in accordance with the Courthouse Square Revitalization Pilot Project Act of 2005, compiled in title 6, chapter 59.

(2) Notwithstanding a repeal of title 6, chapter 59, any municipality receiving an allocation of state sales tax revenue on June 1, 2015, pursuant to title 6, chapter 59, shall continue to receive the allocation of the revenue until June 30, 2028. The allocation shall equal the amount of revenue derived from the state tax imposed by this chapter on the sale or use of goods, products and services within the courthouse square revitalization zone. For purposes of this subdivision (i)(2), “courthouse square revitalization zone” has the same meaning provided in former § 6-59-102 and shall consist of the area that is included within the revitalization zone on June 1, 2015.

(3) No portion of the revenue derived from the increase in the rate of sales and use tax allocated to educational purposes, pursuant to chapter 529, § 9 of the Public Acts of 1992, and no portion of the revenue derived from the increase in the rate of sales and use tax from six percent (6%) to seven percent
(7%), pursuant to chapter 856, § 4 of the Public Acts of 2002 shall be apportioned and distributed pursuant to this subsection (i). All such revenue shall continue to be allocated as provided in chapter 529 of the Public Acts of 1992 and chapter 856 of the Public Acts of 2002.

(j)(1) Notwithstanding the allocations provided for in subsection (a), if a new museum dedicated to coal mining is constructed in a county containing a spallation neutron source facility, then an amount shall be apportioned and distributed to the entity that is responsible for the retirement of the debt on the museum equal to the amount of state and local tax revenue derived under this chapter from the sale of admission, parking, food, drink and any other things or services subject to tax under this chapter, if the sales occur on the premises of the museum. The apportionment and distribution shall begin at the time that the museum begins operations and shall continue for thirty (30) years, or until the debt on the museum is retired, whichever is sooner.

(2)(A) In addition to the distribution provided in subdivision (j)(1), if a new hotel is constructed in connection with the construction of the museum and the hotel is located within one (1) mile of the museum’s entrance, then an amount shall also be apportioned and distributed to the entity that is responsible for the retirement of the debt on the museum equal to the amount of state and local tax revenue derived under this chapter from the sale of lodging, parking, food, drink and any other things or services subject to tax under this chapter, if the sales occur on the premises of the hotel. The apportionment and distribution shall begin at the time the museum begins operations and shall continue for thirty (30) years, or until the debt on the museum is retired, whichever is sooner.

(B) To be entitled to receive the distribution of state and local tax revenue under subdivision (j)(2)(A), the entity responsible for the retirement of the debt on the museum must first file with the department of finance and administration an application seeking certification that the construction of the hotel is directly related to the construction of the museum. The department of finance and administration shall review the application to confirm whether the hotel meets the requirements of this subdivision (j)(2). The department of finance and administration shall report its determination to the department of revenue, which shall administer this subdivision (j)(2) accordingly.

(3) Notwithstanding any provision of this subsection (j) to the contrary, no portion of the revenue derived from the increase in the rate of sales and use tax allocated to educational purposes pursuant to the chapter 529, § 9 of the Public Acts of 1992, and no portion of the revenue derived from the increase in the rate of sales and use tax from six percent (6%) to seven percent (7%) contained in chapter 856, § 4 of the Public Acts of 2002 shall be apportioned and distributed pursuant to this subsection (j). The revenue shall continue to be allocated as provided in chapter 529 of the Public Acts of 1992 and chapter 856 of the Public Acts of 2002, respectively.

(k) Notwithstanding this section and any other law to the contrary, there is established a separate account in the local government fund to be known as the county revenue partnership fund. The apportionment of revenues to the fund and distributions from the fund shall be subject to the following provisions:

(1) Any apportionment of revenues to the county revenue partnership fund shall be allocated only from the revenues apportioned to the state general fund pursuant to subdivision (a)(1);
(2) Apportionment of revenues to the county revenue partnership fund may be made in any year pursuant to an allocation made in a specific dollar amount in the general appropriations act, and no apportionment shall otherwise be made to the fund; provided, however, that in fiscal years 2007-2008 and 2008-2009, no revenue shall be apportioned to the fund;

(3) The apportionment to and distributions from the county revenue partnership fund in any fiscal year shall not exceed the amount distributed to municipalities from the state sales tax pursuant to subdivision (a)(3)(A) in the previous fiscal year;

(4) In any fiscal year in which revenues are apportioned to the county revenue partnership fund, the revenue shall be allocated and distributed to all counties and metropolitan governments in this state monthly by the commissioner of finance and administration, in proportion as the population of each county or metropolitan government bears to the aggregate population of the state, according to the latest federal census or other censuses authorized by law;

(5) The county legislative body shall, on an annual basis, direct the trustee with regard to allocating and depositing the revenue from this fund among the various funds of the county budget; and

(6) In the state budget document, the county revenue partnership fund shall be listed in the report of revenue sources and basis of apportionment, and the amount apportioned to the fund shall be stated in the distribution of revenues by fund for each year in the comparison statement of state revenues, regardless of whether any revenue is apportioned to the fund for a given fiscal year.

(l)(1) Notwithstanding the allocations provided for in subsection (a), if there exists a performing arts center that consists of four (4) or more auditoriums, has a total seating capacity of five thousand four hundred (5,400) or more, and is operated by an organization that has received a determination of exemption from the internal revenue service under Internal Revenue Code § 501(c)(3) (26 U.S.C. § 501(c)(3)), and if the performing arts center is located in facilities owned by the state or a political subdivision of the state, then an amount shall be apportioned and distributed to the entity that is responsible for operation and management of the performing arts center. A performing arts center may consist of two (2) or more performance venues with auditoriums located in two (2) or more buildings that are contiguous or in close proximity and are owned by the state or a political subdivision of the state. The amount apportioned and distributed pursuant to this subsection (l) shall be equal to the amount of state tax revenue derived under this chapter from the sale of tickets for admission to events held at the performing arts center; provided, however, that the apportionment and distribution shall be used exclusively for maintenance and improvement of the facilities in which the performing arts center is located, which shall include, but not be limited to, capital improvements, additions and renovations to the facilities and debt service on funds borrowed to pay for the improvements, additions and renovations. Debt service shall include principal and interest payments on existing and future debt obligations, including repayment to the exempt organization operating the facilities of funds advanced or loaned by the organization that were used or are used to pay the costs, in whole or in part, of the improvements, additions and renovations to the facilities.

(2) Notwithstanding subdivision (l)(1) to the contrary, no portion of the revenue derived from the increase in the rate of sales and use tax allocated to
educational purposes pursuant to chapter 529, § 9 of the Public Acts of 1992, and no portion of the revenue derived from the increase in the rate of sales and use tax from six percent (6%) to seven percent (7%) contained in chapter 856, § 4 of the Public Acts of 2002 shall be apportioned and distributed pursuant to this subsection (l). The revenue shall continue to be allocated as provided in chapter 529 of the Public Acts of 1992 and chapter 856 of the Public Acts of 2002, respectively.

(m)(1) Notwithstanding the allocations in subsection (a), except as provided in subdivision (m)(2), state tax revenue collected from commercial breeders licensed under the Commercial Breeder Act, compiled in title 44, chapter 17, part 7 [expired], shall be allocated to the Commercial Breeder Act enforcement and recovery account.

(2) Notwithstanding subdivision (m)(1), no portion of the revenue derived from the increase in the rate of sales and use tax allocated to educational purposes pursuant to chapter 529, § 9 of the Public Acts of 1992, and no portion of the revenue derived from the increase in the rate of sales and use tax from six percent (6%) to seven percent (7%) contained in chapter 856, § 4 of the Public Acts of 2002 shall be allocated to the Commercial Breeder Act enforcement and recovery account. The revenue shall continue to be allocated as provided in chapter 529 of the Public Acts of 1992 and chapter 856 of the Public Acts of 2002, respectively.

(n)(1) Notwithstanding the allocations provided for in subsection (a), if a hotel or inn that is more than one hundred fifty (150) years old is owned by a municipality and operated by an organization that has received a determination of exemption from the internal revenue service under Internal Revenue Code § 501(c)(3) (26 U.S.C. § 501(c)(3)), then an amount shall be apportioned and distributed to the entity that is responsible for the retirement of the debt incurred in renovating the hotel or inn. The amount apportioned and distributed pursuant to this subsection (n) shall be equal to the amount of state tax revenue derived under this chapter from the sale of goods and services on the premises of the hotel or inn; provided, however, that the apportionment and distribution shall be used exclusively for the retirement of the debt incurred in renovating the hotel or inn and shall continue only until the debt is retired.

(2) Notwithstanding subdivision (n)(1) to the contrary, no portion of the revenue derived from the increase in the rate of sales and use tax allocated to educational purposes pursuant to chapter 529, § 9 of the Public Acts of 1992, and no portion of the revenue derived from the increase in the rate of sales and use tax from six percent (6%) to seven percent (7%) contained in chapter 856, § 4 of the Public Acts of 2002 shall be apportioned and distributed pursuant to this subsection (n). All such revenue shall continue to be allocated as provided in chapter 529 of the Public Acts of 1992 and chapter 856 of the Public Acts of 2002, respectively.

(o)(1) As used in this subsection (o), unless the context otherwise requires:

(A) “Best interests of the state” means a determination by the commissioner of revenue, with approval by the commissioner of economic and community development, that:

(i) The public improvements made within or adjacent to a mixed-use development are a result of the special allocation and distribution of state sales tax provided for in this subsection (o); and

(ii) The mixed-use development is a result of such public
improvements;
(B) “Commercial development zone” means an area in which a mixed-use development is planned or located. To comprise a commercial development zone, the area:
   (i) Must be located entirely within an eligible county;
   (ii) Shall not exceed one thousand two hundred (1,200) acres; and
   (iii) Must be located adjacent to a federally designated interstate highway;
(C) “Eligible county” means any county in which:
   (i) At least twenty-five percent (25%) of the county consists of federally-owned land;
   (ii) At least thirty and three-fifths percent (30.6%) of the county’s population, eighteen (18) years of age and younger, lives in poverty as determined by the United States census bureau, small area income and poverty estimates (SAIPE) program, or any comparable successor program, within the three-year period immediately preceding establishment of the commercial development zone; and
   (iii) The federal highway administration has approved an interstate exit in close proximity to the area proposed for a commercial development zone, and such approval was based on the need to stimulate local economic development opportunities;
(D) “Mixed-use development” means an area, located entirely within an eligible county, containing not less than five hundred (500) acres nor more than one thousand two hundred (1,200) acres and includes, but is not limited to, property with commercial uses; and
(E) “Public improvements” means roads, streets, sidewalks, utility services, such as electricity, gas, water and sanitary sewer, and related services, parking facilities, parks, and all other necessary or desirable improvements to be used by the public in connection with a commercial development zone.
(2) Notwithstanding the allocations provided for in subsection (a), if an eligible county has good reason to anticipate that a private entity is willing to plan and develop a mixed-use development; and if the commissioner of revenue, with approval by the commissioner of economic and community development, determines that the special allocation of state sales tax, as authorized by this subsection (o), is in the best interests of the state, then the county legislative body may adopt a resolution designating a commercial development zone for such mixed-use development; provided, however, no county shall contain more than one (1) commercial development zone; and provided further, however, the county legislative body must adopt such resolution on or before June 30, 2011. If the county legislative body duly adopts such resolution, and if the county or an industrial development board, pursuant to subdivision (o)(3), issues bonds payable in whole or part from the tax revenues described herein and uses the proceeds to finance any development or public improvements constructed within or adjacent to the commercial development zone, then an amount shall be apportioned and distributed to such county for the retirement of debt evidenced by such bonds. The amount apportioned and distributed to the county pursuant to this subsection (o) shall equal the amount of state tax revenue derived under this chapter from sales of items and services subject to tax pursuant to this chapter, if the sales occur within the commercial development zone. The apportionment and
distribution of such revenue shall begin upon the receipt of a certificate of occupancy for the first retail business operating within the commercial development zone and shall continue for a period of thirty (30) years, or until the debt, including any refunding debt, relating to the commercial development zone is retired, whichever is sooner.

(3) An eligible county in which a commercial development zone is duly located is authorized to delegate to any industrial development corporation incorporated by the county or a municipality within the county the authority to issue revenue bonds to finance development or public improvements within or adjacent to a commercial development zone; provided, that the county shall enter into an agreement with the industrial development corporation in which the county shall agree to promptly pay to the industrial development corporation the tax revenues described in this subsection (o). Upon receipt, such tax revenues shall be held in trust by the county for the benefit of the industrial development corporation.

(4) Notwithstanding any provision of subdivision (o)(2) to the contrary, no portion of the revenue derived from the increase in the rate of sales and use tax allocated to educational purposes pursuant to chapter 529, § 9 of the Public Acts of 1992, and no portion of the revenue derived from the increase in the rate of sales and use tax from six percent (6%) to seven percent (7%) contained in chapter 856, § 4 of the Public Acts of 2002 shall be apportioned and distributed pursuant to this subsection (o). The revenue shall continue to be allocated as provided in chapter 529 of the Public Acts of 1992 and chapter 856 of the Public Acts of 2002, respectively.

(p)(1) Notwithstanding the allocations provided for in subsection (a), if there exists a zoo or aquarium that is accredited by the Association of Zoos and Aquariums and has received and currently holds a determination of exemption from the Internal Revenue Service under Internal Revenue Code § 501(c)(3) (26 U.S.C. § 501(c)(3)), then an amount shall be apportioned and distributed to the zoo or aquarium equal to the amount of state tax revenue derived under this chapter from the sale of tangible personal property or amusements on the premises of the zoo or aquarium; provided, however, that such apportionment and distribution shall be used exclusively for the operation of the zoo or aquarium, including, but not limited to, capital projects.

(2) Notwithstanding subdivision (p)(1) to the contrary, no portion of the revenue derived from the increase in the rate of sales and use tax allocated to educational purposes pursuant to chapter 529, § 9 of the Public Acts of 1992, and no portion of the revenue derived from the increase in the rate of sales and use tax from six percent (6%) to seven percent (7%) contained in chapter 856, § 4 of the Public Acts of 2002 shall be apportioned and distributed pursuant to this subsection (p). The revenue shall continue to be allocated as provided in chapter 529 of the Public Acts of 1992 and chapter 856 of the Public Acts of 2002, respectively.

(q) Notwithstanding § 7-40-106 to the contrary, no portion of the revenue derived from the increase in the rate of sales and use tax allocated to educational purposes pursuant to Acts 1992, chapter 529, § 9, and no portion of the revenue derived from the increase in the rate of sales and use tax from six percent (6%) to seven percent (7%) contained in Acts 2002, chapter 856, § 4, shall be distributed to the municipality. The revenue shall continue to be allocated as provided in chapter 529 of the Public Acts of 1992 and chapter 856
of the Public Acts of 2002, respectively.

(r) Notwithstanding the allocations provided for in subsection (a) and § 67-6-710, all moneys received and identified by the commissioner as moneys paid by out-of-state dealers acting in compliance under this chapter with any rule filed with the secretary of state on or after October 1, 2016, and effective on or before January 1, 2017, to give effect to Chapter 789 of the Public Acts of 1988, shall be reported monthly by the commissioner and apportioned into special reserve accounts in the various funds that, pursuant to applicable statutes, share in the proceeds of sales tax collections. Interest earnings on the moneys collected shall be calculated by the division of accounts, department of finance and administration, and allocated monthly to the various fund reserve accounts. Such moneys shall remain in these reserve accounts and shall not revert at the end of any fiscal year; provided, however, such moneys shall be earmarked, allocated and become available for appropriation as otherwise provided in this chapter upon certification by the attorney general and reporter of the happening of any of the following:

(1) The final resolution of any contested case brought before the commissioner under the Uniform Administrative Procedures Act compiled in title 4, chapter 5, or suit challenging application of any rule filed with the secretary of state on or after October 1, 2016, and effective on or before January 1, 2017, to give effect to Chapter 789 of the Public Acts of 1988;

(2) The effective date of a federal law enacted by the United States Congress to regulate the various states' ability to require out-of-state dealers to collect the taxes imposed by this chapter, pursuant to its authority to regulate interstate commerce; or

(3) That no party has brought a contested case before the commissioner under the Uniform Administrative Procedures Act, or a suit challenging application of any rule filed with the secretary of state on or after October 1, 2016, and effective on or before January 1, 2017, to give effect to Chapter 789 of the Public Acts of 1988; provided, however, that any certification under this subdivision (r)(3) shall not occur before June 30, 2018.

(s) [Effective until July 1, 2023.]

(1) Notwithstanding the allocations provided for in subsection (a), fifty percent (50%) of the event revenue from the state taxes collected under this chapter for privileges exercised in an event venue during an event period that would otherwise be deposited in the general fund and not otherwise be earmarked for educational purposes shall be deposited in the event tourism fund established by § 67-6-105.

(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 (s):

(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.

(t)(1) Notwithstanding the allocations provided for in subsection (a), if a new event center is to be constructed for use, in part, by a state university with an independent board of trustees in a county in which there is a population in
excess of one hundred fifty thousand (150,000) in accordance with the 2010 federal census or the most recent subsequent census, and in which there is located, in whole or in part, a military base with enlisted active duty personnel in excess of twenty thousand (20,000) as of December 31, 2018, then an amount shall be apportioned and distributed to a public entity designated by the county that is responsible for the retirement of all or a portion of the original debt on such event center equal to the amount of any incremental state and local sales and use tax revenue, including any portion of local sales taxes that otherwise would be allocated for school purposes, from the sale of food and drink and other authorized goods or products sold on the premises of the event center, ticket sales, parking charges, and related services on the premises of the event center. Any such incremental tax revenues shall be applied to the original debt service related to the event center, and shall not be applied to any debt issued for the purposes of refinancing the original debt. This apportionment and distribution shall continue until the date on which the original debt relating to the event center is retired, or until the expiration of thirty (30) years, whichever is sooner. For purposes of this subdivision (t)(1), an event center shall include the facility in which events are held and shall also include any and all ancillary facilities such as parking facilities adjacent to the facility in which events are held.

(2) Notwithstanding subdivision (t)(1) to the contrary, no portion of the revenue derived from the increase in the rate of sales and use tax allocated to educational purposes pursuant to chapter 529, § 9 of the Public Acts of 1992, and no portion of the revenue derived from the increase in the rate of sales and use tax from six percent (6%) to seven percent (7%) contained in chapter 856, § 4 of the Public Acts of 2002 shall be apportioned and distributed pursuant to subdivision (t)(1). The revenue shall continue to be allocated as provided in chapter 529 of the Public Acts of 1992 and chapter 856 of the Public Acts of 2002, respectively.

(u) Notwithstanding § 7-41-106 to the contrary, no portion of the revenue derived from the increase in the rate of sales and use tax allocated to educational purposes pursuant to Acts 1992, chapter 529, § 9, and no portion of the revenue derived from the increase in the rate of sales and use tax from six percent (6%) to seven percent (7%) contained in Acts 2002, chapter 856, § 4, shall be distributed to the municipality. The revenue must be allocated as provided in Acts 1992, chapter 529 and Acts 2002, chapter 856, respectively.

67-6-106. Sales and use taxes collected on electronic nicotine delivery devices.

The department of revenue is directed to collect information regarding sales taxes the department collects on all electronic nicotine delivery devices, from all sources, including online sales, vape shops, and convenience stores. The department shall report its findings and any recommendations regarding such information on or before February 1, 2020, and on or before February 1 of each subsequent year until February 1, 2030, to the speaker of the senate, speaker of the house of representatives, and chairs of the finance, ways and means committees of the senate and house of representatives.

67-6-201. Taxable privilege declared. [Effective until July 1, 2021. See the version effective on July 1, 2021.]

It is declared to be the legislative intent that every person is exercising a
taxable privilege who:

(1) Engages in the business of selling tangible personal property at retail in this state;
(2) Uses or consumes in this state any item or article of tangible personal property as defined in this chapter, regardless of the ownership thereof or any tax immunity that may be enjoyed by the owner thereof;
(3) Is the recipient of any of the things or services taxable under this chapter;
(4) Rents or furnishes any of the things or services taxable under this chapter;
(5) Stores for use or consumption in this state any item or article of tangible personal property as defined in this chapter;
(6) Leases or rents such property, either as lessor or lessee, within this state;
(7) Charges admission, dues or fees taxable under this chapter;
(8) Sells space under this chapter;
(9) Charges a fee for subscription to, access to or use of television services provided by a video programming service provider; or
(10) Charges a fee for subscription to, access to or use of television services delivered by a provider of direct-to-home satellite service.

67-6-201. Taxable privilege declared. [Effective on July 1, 2021. See the version effective until July 1, 2021.]

It is declared to be the legislative intent that every person is exercising a taxable privilege who:

(1) Engages in the business of selling tangible personal property at retail in this state;
(2) Uses or consumes in this state any item or article of tangible personal property as defined in this chapter, regardless of the ownership thereof or any tax immunity that may be enjoyed by the owner thereof;
(3) Is the recipient of any of the things or services taxable under this chapter;
(4) Rents or furnishes any of the things or services taxable under this chapter;
(5) Stores for use or consumption in this state any item or article of tangible personal property as defined in this chapter;
(6) Leases or rents such property, either as lessor or lessee, within this state;
(7) Charges admission, dues or fees taxable under this chapter;
(8) Sells space under this chapter;
(9) [Deleted by 2007 amendment, effective July 1, 2019.]
(10) [Deleted by 2007 amendment, effective July 1, 2019.]
(11) Charges a fee for subscription to, access to or use of television services provided by any electronic means, except for video programming services or direct-to-home satellite television services sold by persons subject to the tax in chapter 4, part 24 of this title; or
(12) Whether or not the person has a place of business in this state, delivers tangible personal property in this state, if the delivery is made to a consumer in this state or to another person, for redelivery to a consumer in this state pursuant to a retail sale made by the person to the consumer; provided, that
this shall not be construed to impose a tax that is invalid either under the
commerce clause or the due process clause of the United States constitution.

67-6-202. Property sold at retail. [Effective until July 1, 2021. See the
version effective on July 1, 2021.]

(a) For the exercise of the privilege of engaging in the business of selling
tangible personal property at retail in this state, a tax is levied on the sales
price of each item or article of tangible personal property when sold at retail in
this state; the tax is to be computed on gross sales for the purpose of remitting
the amount of tax due the state and is to include each and every retail sale. The
tax shall be levied at the rate of seven percent (7%). There is levied an
additional tax at the rate of two and three-quarters percent (2.75%) on the
amount in excess of one thousand six hundred dollars ($1,600), but less than
or equal to three thousand two hundred dollars ($3,200), on the sale or use of
any single article of personal property as defined in § 67-6-702(d). The tax
levied at the rate of two and three-quarters percent (2.75%) on the amount in
excess of one thousand six hundred dollars ($1,600), but less than or equal to
three thousand two hundred dollars ($3,200), on the sale or use of any single
article of personal property shall be in addition to all other taxes and shall be
a state tax for state purposes only. No county or municipality or taxing district
shall have the power to levy any tax on the amount in excess of one thousand
six hundred dollars ($1,600), but less than or equal to three thousand two
hundred dollars ($3,200), on the sale or use of any single article of personal
property.

(b) Notwithstanding any other provision of law to the contrary, the one-half
percent (0.5%) increase in the rate of the sales tax from five and one-half
percent (5.5%) to six percent (6%) imposed by chapter 529 of the Public Acts of
1992 in this section and §§ 67-6-203, 67-6-204, 67-6-205, and 67-6-221 shall
remain in effect until changed by the general assembly. All revenue generated
from such increases shall be deposited in the state general fund and ear-
marked for education purposes as provided in § 67-6-103(c)(2).

(c) This section levies a tax on the sales price of tangible personal property
obtained from any vending machine or device.

67-6-202. Property sold at retail. [Effective on July 1, 2021. See the
version effective until July 1, 2021.]

(a) For the exercise of the privilege of engaging in the business of selling
tangible personal property at retail in this state, a tax is levied on the sales
price of each item or article of tangible personal property when sold at retail in
this state; the tax is to be computed on gross sales for the purpose of remitting
the amount of tax due the state and is to include each and every retail sale. The
tax shall be levied at the rate of seven percent (7%). There is levied an additional
tax at the rate of two and three-quarters percent (2.75%) on the amount in excess of
one thousand six hundred dollars ($1,600), but less than or equal to three
thousand two hundred dollars ($3,200), on the sale or use of any single article of
personal property as defined in § 67-6-702. The tax levied at the rate of two
and three-quarters percent (2.75%) on the amount in excess of one thousand six
hundred dollars ($1,600), but less than or equal to three thousand two hundred
dollars ($3,200), on the sale or use of any single article of personal property
shall be in addition to all other taxes and shall be a state tax for state purposes
only. No county or municipality or taxing district shall have the power to levy any tax on the amount in excess of one thousand six hundred dollars ($1,600), but less than or equal to three thousand two hundred dollars ($3,200), on the sale or use of any single article of personal property.

(b) Notwithstanding any other provision of law to the contrary, the one-half percent (0.5%) increase in the rate of the sales tax from five and one-half percent (5.5%) to six percent (6%) imposed by chapter 529 of the Public Acts of 1992 in this section and §§ 67-6-203, 67-6-204, 67-6-205, and 67-6-221 shall remain in effect until changed by the general assembly. All revenue generated from such increases shall be deposited in the state general fund and earmarked for education purposes as provided in § 67-6-103(c)(2).

(c) This section levies a tax on the sales price of tangible personal property obtained from any vending machine or device.

67-6-203. Property used, consumed, distributed or stored. [Effective until July 1, 2021. See the version effective on July 1, 2021.]

(a) A tax is levied at the rate of the tax levied on the sale of tangible personal property at retail by § 67-6-202 of the purchase price of each item or article of tangible personal property when the tangible personal property is not sold, but is used, consumed, distributed, or stored for use or consumption in this state; provided, that there shall be no duplication of the tax.

(b) A tax, which shall be paid by the distributor, is also levied at the rate set out in subsection (a) on the value of catalogues, advertising fliers, or other advertising publications distributed to residents of Tennessee; provided, that this tax shall not be duplicative of a sales or use tax otherwise collected on such publications. “Distributor” does not include the commercial printer or mailer of any such catalogues, advertising fliers, or other advertising publications; nor shall nexus to a taxpayer be established through a relationship with a commercial printer or mailer having a presence in Tennessee; nor shall the commercial printer or mailer have the obligation of collecting any such tax.

(c) Notwithstanding any other provision of law to the contrary, the one-half percent (0.5%) increase in the rate of the sales tax from five and one-half percent (5.5%) to six percent (6%) imposed by chapter 529 of the Public Acts of 1992 in this section and §§ 67-6-202, 67-6-204, 67-6-205, and 67-6-221 shall remain in effect until changed by the general assembly. All revenue generated from such increases shall be deposited in the state general fund and earmarked for education purposes as provided in § 67-6-103(c)(2).
effect until changed by the general assembly. All revenue generated from such increases shall be deposited in the state general fund and earmarked for education purposes as provided in § 67-6-103(c)(2).

67-6-205. Services. [Effective until July 1, 2021. See the version effective on July 1, 2021.]

(a) There is levied a tax at the rate of the tax levied on the sale of tangible personal property at retail by § 67-6-202 on the sales price of all services taxable under this chapter.

(b) Notwithstanding any other provision of law to the contrary, the one-half percent (0.5%) increase in the rate of the sales tax from five and one-half percent (5.5%) to six percent (6%) imposed by chapter 529 of the Public Acts of 1992 in §§ 67-6-202, 67-6-203, 67-6-204, 67-6-221, and this section shall remain in effect until changed by the general assembly. All revenue generated from such increases shall be deposited in the state general fund and earmarked for education purposes as provided in § 67-6-103(c)(2).

(c) The retail sale of the following services are taxable under this chapter:

(1) The sale, rental or charges for any rooms, lodgings, or accommodations furnished to persons by any hotel, inn, tourist court, tourist camp, tourist cabin, motel, or any place in which rooms, lodgings or accommodations are furnished to persons for a consideration. The tax does not apply, however, to rooms, lodgings, or accommodations supplied to the same person for a period of ninety (90) continuous days or more; charges for or the value of the use of any time-share estate or perpetual interest in a trust, partnership, nonprofit corporation or limited liability company that has as its substantial purpose the ownership and control of real property; or charges for or amounts paid as a standard fee for the service of facilitating the exchange of one (1) time-share interval for another or the service of making a reservation for a time-share interval via a reservation system;

(2) Charges for services rendered by persons operating or conducting a garage, parking lot or other place of business for the purpose of parking or storing motor vehicles. The tax does not apply, however, to charges for such services made by the state and its political subdivisions when providing on-street parking space for which charges are collected, or when operating or conducting a garage or parking lot that is unattended and the charges are collected by parking meters;

(3) The furnishing, for a consideration, of intrastate, interstate or international telecommunication services;

(4) The performing, for a consideration, of any repair services with respect to any kind of tangible personal property or computer software;

(5) The laundering or dry cleaning of any kind of tangible personal property, excluding coin-operated laundry or dry cleaning, where a charge is made for the laundering or dry cleaning; provided, that this subdivision (c)(5) does not apply to:

(A) The bathing of animals provided by a licensed veterinarian when rendered for a medical purpose in conjunction with the practice of veterinary medicine, as defined in § 63-12-103; and

(B) Any car wash facility, coin-operated or otherwise, where the customer remains in custody of the vehicle and the preponderance of the vehicle’s wash is completed by the customer or automated equipment;
(6) The installing of tangible personal property that remains tangible personal property after installation and the installing of computer software, where a charge is made for the installation, whether or not the installation is made as an incident to the sale of tangible personal property or computer software, and whether or not any tangible personal property or computer software is transferred in conjunction with the installation service;

(7) The enriching of uranium materials, compounds, or products that is performed on a cost-plus basis or on a toll enrichment fee basis;

(8) The renting or providing of space to a dealer or vendor without a permanent location in this state or to persons who are registered for sales tax at other locations in this state but who are making sales at this location on a less than permanent basis. This subdivision (c)(8) does not apply to the renting or providing of space to a craft fair, antique mall, or book fair or gun show, if the book fair or gun show is sponsored by a not-for-profit corporation. This subdivision (c)(8) also does not apply to the renting or providing of space at a flea market or the renting or providing of space at conventions, trade shows, or expositions, if the conventions, trade shows, or expositions do not allow the general public to enter the exhibit area for the purpose of making sales or taking orders for sales; and

(9) The furnishing, for a consideration, of ancillary services.

67-6-205. Services. [Effective on July 1, 2021. See the version effective until July 1, 2021.]

(a) There is levied a tax at the rate of the tax levied on the sale of tangible personal property at retail by § 67-6-202 on the sales price of all services taxable under this chapter.

(b) Notwithstanding any other provision of law to the contrary, the one-half percent (0.5%) increase in the rate of the sales tax from five and one-half percent (5.5%) to six percent (6%) imposed by chapter 529 of the Public Acts of 1992 in §§ 67-6-202, 67-6-203, 67-6-204, 67-6-221, and this section shall remain in effect until changed by the general assembly. All revenue generated from such increases shall be deposited in the state general fund and earmarked for education purposes as provided in § 67-6-103(c)(2).

(c) The retail sale of the following services are taxable under this chapter:

(1) The sale, rental or charges for any rooms, lodgings, or accommodations furnished to persons by any hotel, inn, tourist court, tourist camp, tourist cabin, motel, or any place in which rooms, lodgings or accommodations are furnished to persons for a consideration. The tax does not apply, however, to rooms, lodgings, or accommodations supplied to the same person for a period of ninety (90) continuous days or more; charges for or the value of the use of any time-share estate or perpetual interest in a trust, partnership, nonprofit corporation or limited liability company that has as its substantial purpose the ownership and control of real property; or charges for or amounts paid as a standard fee for the service of facilitating the exchange of one (1) time-share interval for another or the service of making a reservation for a time-share interval via a reservation system;

(2) Charges for services rendered by persons operating or conducting a garage, parking lot or other place of business for the purpose of parking or storing motor vehicles. The tax does not apply, however, to charges for such services made by the state and its political subdivisions when providing
on-street parking space for which charges are collected, or when operating or
congducting a garage or parking lot that is unattended and the charges are
collected by parking meters;

(3) The furnishing, for a consideration, of intrastate, interstate or interna-
tional telecommunication services;

(4) The performing, for a consideration, of any repair services with respect
to any kind of tangible personal property or computer software;

(5) The laundering or dry cleaning of any kind of tangible personal
property, excluding coin-operated laundry or dry cleaning, where a charge is
made for the laundering or dry cleaning; provided, that this subdivision (c)(5)
does not apply to:

(A) The bathing of animals provided by a licensed veterinarian when
rendered for a medical purpose in conjunction with the practice of veteri-
nary medicine, as defined in § 63-12-103; and

(B) Any car wash facility, coin-operated or otherwise, where the customer
remains in custody of the vehicle and the preponderance of the vehicle’s
wash is completed by the customer or automated equipment;

(6) The installing of tangible personal property that remains tangible
personal property after installation and the installing of computer software,
where a charge is made for the installation, whether or not the installation is
made as an incident to the sale of tangible personal property or computer
software, and whether or not any tangible personal property or computer
software is transferred in conjunction with the installation service;

(7) The enriching of uranium materials, compounds, or products that is
performed on a cost-plus basis or on a toll enrichment fee basis;

(8) The renting or providing of space to a dealer or vendor without a
permanent location in this state or to persons who are registered for sales tax
at other locations in this state but who are making sales at this location on a
less than permanent basis. This subdivision (c)(8) does not apply to the
renting or providing of space to a craft fair, antique mall, or book fair or gun
show, if the book fair or gun show is sponsored by a not-for-profit corporation.
This subdivision (c)(8) also does not apply to the renting or providing of space
at a flea market or the renting or providing of space at conventions, trade
shows, or expositions, if the conventions, trade shows, or expositions do not
allow the general public to enter the exhibit area for the purpose of making
sales or taking orders for sales;

(9) The furnishing, for a consideration, of ancillary services; and

(10) Charging a fee for subscription to, access to, or use of television
services provided by any electronic means, except for video programming
services or direct-to-home satellite television services sold by persons subject
to the tax in chapter 4, part 24, of this title.

67-6-206. Industrial machinery and raw materials — Exemptions.
[Effective until July 1, 2021. See the version effective on
July 1, 2021.]

(a) After June 30, 1983, no tax is due with respect to industrial machinery.
(b)(1) Tax at the rate of one percent (1%) is imposed with respect to water
when sold to or used by manufacturers. Tax at the rate of one and one-half
percent (1.5%) shall be imposed with respect to gas, electricity, fuel oil, coal
and other energy fuels when sold to or used by manufacturers.
(2) For the purpose of this subsection (b), “manufacturer” means one whose principal business is fabricating or processing tangible personal property for resale.

(3) The substances shall be exempt entirely from the taxes imposed by this chapter whenever it may be established to the satisfaction of the commissioner, by separate metering or otherwise, that they are exclusively used directly in the manufacturing process, coming into direct contact with the article being fabricated or processed by the manufacturer, and being expended in the course of the contact. Whenever the commissioner determines that the use of the substances by a manufacturer meets the test, the commissioner shall issue a certificate evidencing the entitlement of the manufacturer to the exemption. A copy of the certificate issued by the commissioner or a fully completed Streamlined Sales Tax certificate of exemption, which must include the manufacturer’s exemption authorization number included on the certificate issued by the commissioner, shall be furnished by the manufacturer to the manufacturer’s supplier of the exempt substances. The certificate may be revoked by the commissioner at any time upon a finding that the conditions precedent to the exemption no longer exist.

(4) Any water or energy fuel used by a manufacturer in fabricating or processing tangible personal property for resale shall be exempt entirely from the taxes imposed by this chapter when the water or energy fuel are produced or extracted directly by the manufacturer from facilities owned by the manufacturer or in the public domain.

(5) Notwithstanding the requirement of direct contact, there shall be exempt entirely from the tax imposed by this chapter electricity used to generate radiant heat for production of heat-treated glass when sold to or used by manufacturers; provided, that the manufacturer has applied for and received a certificate of exemption as required by this section. The person shall furnish to that person’s supplier of the substance a copy of the certificate or a fully completed Streamlined Sales Tax certificate of exemption, which must include the manufacturer’s exemption authorization number included on the certificate issued by the commissioner, to evidence qualification for the exemption.

(6)(A) Notwithstanding subdivisions (b)(1)-(5), the reduced rates provided by subdivision (b)(1) shall apply to the use of such substances by a person engaged at a location in packaging automotive aftermarket products manufactured at other locations by the same person or by a corporation affiliated with the manufacturing corporation, such that:

(i) Either corporation directly owns or controls one hundred percent (100%) of the capital stock of the other corporation; or

(ii) One hundred percent (100%) of the capital stock of both corporations is directly owned or controlled by a common parent.

(B) “Packaging”, as used in this subdivision (b)(6), refers only to the fabrication and/or installation of that packaging that will accompany the automotive aftermarket product when sold at retail. The reduced rates shall apply only to such substances used in the packaging process. Such use must be established to the satisfaction of the commissioner by separate metering or otherwise. To qualify for the reduced rate under this subdivision (b)(6), a person shall apply for and receive a certificate of qualification for the reduced rate from the commissioner. The person shall
furnish to that person’s supplier of the substances a copy of the certificate or a fully completed Streamlined Sales Tax certificate of exemption, which must include the exemption authorization number included on the certificate issued by the commissioner, to evidence qualification for the reduced rate.

(7) Notwithstanding the requirement of direct contact, natural gas used to generate heat for the production of primary aluminum, aluminum sheet and foil, and aluminum can sheet products when sold to or used by manufacturers shall be exempt entirely from the tax imposed by this chapter; provided, that the manufacturer applies for and receives a certificate of exemption as required by this section. Nothing shall be inferred from this subdivision (b)(7) as to the law in effect prior to this change.

(8) Notwithstanding subdivision (b)(2), the term “manufacturer” does not include any person whose principal business is the preparation of food for immediate retail sale.

(c)(1) Tax at the rate of one and one-half percent (1.5%) shall be imposed with respect to electricity when sold to or used by a qualified data center.

(2) No tax is imposed with respect to cooling equipment or backup power infrastructure when sold to or used by a qualified data center.

(3) As used in subdivision (c)(2):

(A) “Backup power infrastructure” means backup power generation, battery systems, and related infrastructure used primarily for and necessary to the operations of a qualified data center; and

(B) “Cooling equipment” means cooling systems, cooling towers, and other temperature control infrastructure used primarily for and necessary to the operations of a qualified data center.

(d) Any qualified data center that applies for job tax credits under § 67-4-2109 must certify on its business plan that it has not, within the previous twelve (12) months, been found to be in violation of the Worker Adjustment and Retraining Notification (WARN) Act (29 U.S.C. §§ 2101-2109), the Fair Labor Standards Act of 1938 (29 U.S.C. § 201 et seq.), or federal immigration laws. Any qualified data center that fails to provide the required certification shall not qualify for job tax credits under § 67-4-2109.

67-6-206. Industrial machinery and raw materials — Exemptions.

[Effective on July 1, 2021. See the version effective until July 1, 2021.]

(a) After June 30, 1983, no tax is due with respect to industrial machinery.

(b)(1) No tax is imposed with respect to water when sold to or used by manufacturers. No tax is imposed with respect to gas, electricity, fuel oil, coal and other energy fuels when sold to or used by manufacturers.

(2)(A) For the purpose of this subsection (b), “manufacturer” means one whose principal business is fabricating or processing tangible personal property for resale and also includes a person engaged at a location in packaging automotive aftermarket products manufactured at other locations by the same person or by a corporation affiliated with the manufacturing corporation such that:

(i) Either corporation directly owns or controls one hundred percent (100%) of the capital stock of the other corporation; or

(ii) One hundred percent (100%) of the capital stock of both corpora-
tions is directly owned or controlled by a common parent.

(B) “Packaging”, as used in this subdivision (b)(2), refers only to the fabrication or installation, or both, of that packaging that will accompany the automotive aftermarket product when sold at retail. The exemption shall apply only to the substances used in the packaging process. That use must be established to the satisfaction of the commissioner by separate metering or otherwise.

(3) To qualify for the exemption under this section, a person shall apply for and receive a certificate of qualification for the exemption from the commissioner for each location that the person qualifies as a manufacturer or qualified data center. The person shall furnish to vendors and suppliers of the purchases either a copy of the certificate issued by the commissioner or a Streamlined Sales Tax certificate of exemption, which shall include the manufacturer's exemption authorization number included on the certificate issued by the commissioner, to evidence qualification for the exemption.

(4) Notwithstanding subdivision (b)(2), “manufacturer” shall not include any person whose principal business is the preparation of food for immediate retail sale.

(5) [Deleted by 2007 amendment, effective July 1, 2019.]

(6) [Deleted by 2007 amendment, effective July 1, 2019.]

(7) [Deleted by 2007 amendment, effective July 1, 2019.]

(8) [Deleted by 2007 amendment, effective July 1, 2019.]

(c)(1) Tax at the rate of one and one-half percent (1.5%) shall be imposed with respect to electricity when sold to or used by a qualified data center.

(2) No tax is imposed with respect to cooling equipment or backup power infrastructure when sold to or used by a qualified data center.

(3) As used in subdivision (c)(2):

(A) “Backup power infrastructure” means backup power generation, battery systems, and related infrastructure used primarily for and necessary to the operations of a qualified data center; and

(B) “Cooling equipment” means cooling systems, cooling towers, and other temperature control infrastructure used primarily for and necessary to the operations of a qualified data center.

(d) Any qualified data center that applies for job tax credits under § 67-4-2109 must certify on its business plan that it has not, within the previous twelve (12) months, been found to be in violation of the Worker Adjustment and Retraining Notification (WARN) Act (29 U.S.C. §§ 2101-2109), the Fair Labor Standards Act of 1938 (29 U.S.C. § 201 et seq.), or federal immigration laws. Any qualified data center that fails to provide the required certification shall not qualify for job tax credits under § 67-4-2109.

67-6-207. Farm equipment and machinery.

(a) The sale at retail, lease, rental, use, consumption, distribution, repair, storage for use or consumption in this state of the following tangible personal property is specifically exempted from the tax imposed by this chapter when sold to a qualified farmer or nurseryman in accordance with subsection (e):

(1) Any appliance used directly and principally for the purpose of producing agricultural products, including nursery products, for sale and use or consumption off the premises, but excluding an automobile, truck, household appliances or property that becomes real property when erected or installed;
(2) Grain bins and attachments to grain bins;
(3) Aircraft designed and used for crop dusting, such as an agracat or other similar airplanes that are designed for crop dusting purposes;
(4) Equipment used exclusively for harvesting timber;
(5) Trailers used to transport livestock, as defined in § 44-18-101, farm products, nursery stock, or equipment, supplies, or products used in agriculture, as those terms are defined in § 43-1-113, or for other agricultural purposes relating to the operation and maintenance of a farm;
(6) Self-propelled fertilizer or chemical application equipment used to spread fertilizer or chemical on farms to aid in the production of food or fiber for human or animal consumption, notwithstanding the fact that the equipment may be mounted on a chassis with wheels, if the equipment is not designed for over-the-road use, but may be driven over-the-road from the source of supply to the farm, and tender beds and spreader beds, even if mounted on a truck chassis;
(7) Systems for poultry environment control, feeding and watering poultry and conveying eggs;
(8) Replacement parts or labor relative to the repair of the tangible personal property described in subdivisions (a)(1)-(7);
(9)(A) Gasoline or diesel fuel used for agricultural purposes, as defined in § 67-6-102; except that premixed engine fuel containing gasoline and oil, produced for use in two-cycle engines and not for use in the propulsion of an aircraft, vessel or any other vehicle, that is sold in containers of one gallon (1 gal.) or less, is not exempt from the tax imposed by this chapter;
(B) For purposes of subdivision (a)(9)(A), “diesel fuel” means any petroleum distillate with at least twelve to sixteen (12-16) carbon atoms per molecule that has a boiling point of between three hundred fifty degrees Fahrenheit (350° F) and six hundred fifty degrees Fahrenheit (650° F) or any petroleum distillate that is ordinarily and customarily sold and used as a source of fuel for diesel engines;
(10) Seeds, seedlings, plants grown from seed and liners or cuttings that will produce food or fiber, including tobacco, for human or animal consumption;
(11) Fertilizer to be used to aid in the growth and development of seeds, seedlings or plants, as described in subdivision (a)(10);
(12)(A) Pesticides that are sold for the purpose of aiding in the production of food or fiber, including tobacco, for human or animal consumption;
(B) As used in this section, “pesticide” means any substance or mixture of substances or chemicals intended for defoliating or desiccating plants or for preventing, destroying, repelling or mitigating any insects, rodents, fungi, bacteria or weeds, including, but not limited to, insecticides, fungicides, bactericides, herbicides, desiccants, defoliants, plant regulators and nematocides;
(13) Containers for farm products and plastic or canvas used in the care and raising of plants, seeds or seedlings, as described in subdivision (a)(10), and plastic or canvas used in covering feed bins, silos and other similar storage structures;
(14) Livestock and poultry feeds, drugs used for livestock and instruments used for the administration of the drugs;
(15) Any natural or artificial substance used in the reproduction of livestock, including semen or embryos;
(16) Adjuvants and surfactants solutions sold exclusively for the purpose of mixture with insecticides, pesticides, fungicides or herbicides or for use as a soil conditioner when the solutions are intended to aid in the growth and development of food or fiber, including tobacco, for human or animal consumption;

(17) Agri-sawdust;

(18) Water, electricity, natural gas, and liquefied gas, including, but not limited to, propane and butane, used directly in the production of food or fiber for human or animal consumption or to aid in the growing of a horticultural product for sale; and

(19) Coal, wood, wood products or wood byproducts, or fuel oil, which is used as energy fuel in the production of food or fiber for human or animal consumption or in production of nursery and greenhouse crops.

(b) Persons seeking to become qualified farmers or nurserymen shall apply to the commissioner for authority to make purchases exempt from tax. This application shall require information that the commissioner deems necessary. If the commissioner finds from the information that the applicant is entitled to be a qualified farmer or nurseryman, the commissioner shall issue a certificate granting the authority for a period of four (4) years, or until the applicant is no longer operating within the scope of its original application. Any misrepresentation made on the application by the applicant shall subject the applicant to any applicable tax, penalty and interest.

(c) Persons who have obtained authority from the commissioner to make purchases tax exempt as a qualified farmer or nurseryman shall provide their vendors with a copy of the certificate issued by the commissioner or a fully completed Streamlined Sales Tax certificate of exemption, which must include the exemption authorization number included on the certificate issued by the commissioner, to evidence qualification for the exemption.

(d) Persons making purchases exempt from tax under this section shall keep records to establish that the property qualifies for the exemption. The purchaser shall be liable for tax, penalty and interest for making nonqualifying purchases without payment of tax.

(e) For purposes of this section, “a qualified farmer or nurseryman” means a person who meets one (1) or more of the following criteria:

(1) The person is the owner or lessee of agricultural land from which one thousand dollars ($1,000) or more of agricultural products were produced and sold during the year, including payments from government sources;

(2) The person is in the business of providing for-hire custom agricultural services for the plowing, planting, harvesting, growing, raising or processing of agricultural products or for the maintenance of agricultural land;

(3) The person is the owner of land that qualifies for taxation under the Agricultural Forest and Open Space Land Act of 1976, compiled in chapter 5, part 10 of this title;

(4) The person’s federal income tax return contains one (1) or more of the following:

   (A) Business activity on IRS schedule F, profit or loss from farming; and
   (B) Farm rental activity on IRS form 4835, farm rental income and expenses or schedule E, supplemental income and loss; and

(5) The person otherwise establishes to the satisfaction of the commissioner that the person is actively engaged in the business of raising, harvesting or otherwise producing agricultural commodities as defined in
§ 67-6-301(c)(2).

(f) Notwithstanding subsection (e) to the contrary, a person that qualifies as a manufacturer under § 67-6-206 shall not qualify as a farmer or nurseryman under this section.

67-6-209. Use of property produced or severed from earth — Exemptions. [Effective until July 1, 2021. See the version effective on July 1, 2021.]

(a) Where a manufacturer, producer, compounder or contractor erects or applies tangible personal property, that the manufacturer, producer, compounder or contractor has manufactured, produced, compounded or severed from the earth, other than:

1. Any material severed from the earth and moved from one (1) place to another on the same construction or job site; and
2. Dirt, soil, earth or any other kind of material when used for fill, whether from the same construction or job site or elsewhere;

such person so using the tangible personal property shall pay the tax levied in this section on the fair market value of such tangible personal property when used, without any deductions whatsoever; provided, that this subsection (a) shall not be construed to apply to contractors or subcontractors who fabricate, erect or apply tangible personal property that becomes a component part of a building, and that is not sold by them as a manufactured item.

(b) Where a contractor or subcontractor defined in this chapter as a dealer uses tangible personal property in the performance of the contract, or to fulfill contract or subcontract obligations, whether the title to such property be in the contractor, subcontractor, contractee, subcontractee, or any other person, or whether the title holder of such property would be subject to pay the sales or use tax, except where the title holder is a church, private nonprofit college or university and the tangible personal property is for church, private nonprofit college or university construction, such contractor or subcontractor shall pay a tax at the rate prescribed by § 67-6-203 measured by the purchase price of such property, unless such property has been previously subjected to a sales or use tax, and the tax due thereon has been paid. The exemption provided for in this subsection (b) for private nonprofit colleges or universities shall apply only to the state portion of the sales tax. The sales or use tax levied by this chapter shall not apply to carpet installed for a church when the church is exempt from sales or use taxes under § 67-6-322.

(c) The tax imposed by this section shall have no application where the contractor or subcontractor, and the purpose for which such tangible personal property is used, would be exempt from the sales or use tax under any other provision of this chapter. However, the transfer of tangible personal property by a contractor who contracts for the installation of such tangible personal property as an improvement to realty does not constitute a sale, except as provided in § 67-6-102(37), and the contractor shall not be permitted on this basis to obtain the benefit of any exemptions or reduced tax rates available to manufacturers under § 67-6-102(44)(E) or § 67-6-206. Each location of a taxpayer will be considered separately in determining whether the taxpayer qualifies or is disqualified as a manufacturer at that location.

(d) The tax imposed by this section or by any other provision of this chapter shall have no application with respect to the use by, or the sale to, a contractor
or subcontractor of atomic weapon parts, source materials, special nuclear materials and by-product materials, all as defined by the Atomic Energy Act of 1954 (42 U.S.C. § 2011 et seq.), or with respect to such other materials as would be excluded from taxation as industrial materials under § 67-6-102(44)(E), when the items referred to in this subsection (d) are sold or leased to a contractor or subcontractor for use in, or experimental work in connection with, the manufacturing processes for or on behalf of the atomic energy commission or when any of such items are used by a contractor or subcontractor in such experimental work or manufacturing processes.

(e) There is exempt from this chapter the sale or use of materials and equipment purchased or used for construction or installation, by a contractor, subcontractor or otherwise, of, in or as a part of any electric generating plant or distribution system, any resource recovery facility where steam or electric energy is produced, or any coal gasification plant or distribution system owned or operated by the United States or any agency thereof created by an act of congress, or by the state of Tennessee or any agency or political subdivision thereof, or any authority organized pursuant to the Rural Electric and Community Services Cooperative Act, compiled in title 65, chapter 25. There is also exempt the sale or use of materials and equipment purchased or used for construction or installation by a contractor, subcontractor or otherwise, of, in or as a part of any electric generating plant, including the transmission substation, owned or operated by any person, so long as such person does not now or intend in the future to generate electricity from a plant located in Tennessee or to distribute electricity to consumers in Tennessee.

(f) There is exempt from the tax imposed by this section or any other provision of this chapter pipes, fittings and materials used to repair or maintain a water utility system owned by a utility district created pursuant to title 7, chapter 82. This exemption applies only to pipes, fittings and materials which become an integral part of the water utility system. This exemption does not apply to any installation of pipes, fittings or materials for any reason other than repair or maintenance of an existing system.

(g) There is exempt from the tax imposed by this section tangible personal property that:

(1) Is installed by a dealer in manufactured homes, or furnished to a contractor by the dealer for use in the installation of a manufactured home; and

(2) Has previously been subjected to the tax imposed by § 67-6-216.

(h) There is exempt from the tax imposed by this chapter any tangible personal property owned by the United States, or any agency thereof, that is provided to a contractor or subcontractor on a temporary basis for testing pursuant to a contract awarded by the United States, or any agency thereof, to such contractor or subcontractor under the Small Business Innovation Research Program, as that term is defined in 15 U.S.C. § 638(e)(4). The exemption provided by this subsection (h) shall apply only to property that is the subject of the test being performed and property into which the subject of the test must be incorporated before the testing can occur. The exemption provided by this subsection (h) shall not apply to any equipment, machinery or other property used to conduct the test.

(i) There is exempt from the tax imposed by this chapter any tangible personal property that is provided to a contractor or subcontractor on a temporary basis for testing; provided, that the exemption shall apply only in
those instances where the facility at which the testing is undertaken is owned by the United States or any agency of the United States. The exemption provided by this subsection (i) shall apply only to the property that is the subject of the test being performed and property into which the subject of the test must be incorporated before the testing can occur. Under no circumstances shall the exemption apply to property used to conduct the test or to property consumed or destroyed during the test. For this purpose, the term “testing” shall be limited to diagnostic, analytical and scientific testing in a controlled environment, dedicated to testing for the purpose of providing information and findings supportive of the aerodynamic, hypersonic, aeropropulsion, space, missile, aircraft and aerospace technologies and industries.

67-6-209. Use of property produced or severed from earth — Exemptions. [Effective on July 1, 2021. See the version effective until July 1, 2021.]

(a) Where a manufacturer, producer, compounder or contractor erects or applies tangible personal property, that the manufacturer, producer, compounder or contractor has manufactured, produced, compounded or severed from the earth, other than:

1. Any material severed from the earth and moved from one (1) place to another on the same construction or job site; and
2. Dirt, soil, earth or any other kind of material when used for fill, whether from the same construction or job site or elsewhere;

such person so using the tangible personal property shall pay the tax levied in this section on the fair market value of such tangible personal property when used, without any deductions whatsoever; provided, that this subsection (a) shall not be construed to apply to contractors or subcontractors who fabricate, erect or apply tangible personal property that becomes a component part of a building, and that is not sold by them as a manufactured item.

(b) Where a contractor or subcontractor defined in this chapter as a dealer uses tangible personal property in the performance of the contract, or to fulfill contract or subcontract obligations, whether the title to such property be in the contractor, subcontractor, contractee, subcontractee, or any other person, or whether the title holder of such property would be subject to pay the sales or use tax, except where the title holder is a church, private nonprofit college or university and the tangible personal property is for church, private nonprofit college or university construction, such contractor or subcontractor shall pay a tax at the rate prescribed by § 67-6-203 measured by the purchase price of such property, unless such property has been previously subjected to a sales or use tax, and the tax due thereon has been paid. The sales or use tax levied by this chapter shall not apply to carpet installed for a church when the church is exempt from sales or use taxes under § 67-6-322.

(c) The tax imposed by this section shall have no application where the contractor or subcontractor, and the purpose for which such tangible personal property is used, would be exempt from the sales or use tax under any other provision of this chapter. However, the transfer of tangible personal property by a contractor who contracts for the installation of such tangible personal property as an improvement to realty does not constitute a sale, except as provided in § 67-6-102(39), and the contractor shall not be permitted on this
basis to obtain the benefit of any exemptions or reduced tax rates available to manufacturers under § 67-6-102(46)(E) or § 67-6-206. Each location of a taxpayer will be considered separately in determining whether the taxpayer qualifies or is disqualified as a manufacturer at that location.

(d) The tax imposed by this section or by any other provision of this chapter shall have no application with respect to the use by, or the sale to, a contractor or subcontractor of atomic weapon parts, source materials, special nuclear materials and by-product materials, all as defined by the Atomic Energy Act of 1954 (42 U.S.C. § 2011 et seq.), or with respect to such other materials as would be excluded from taxation as industrial materials under § 67-6-102(46)(E), when the items referred to in this subsection (d) are sold or leased to a contractor or subcontractor for use in, or experimental work in connection with, the manufacturing processes for or on behalf of the atomic energy commission or when any of such items are used by a contractor or subcontractor in such experimental work or manufacturing processes.

(e) There is exempt from this chapter the sale or use of materials and equipment purchased or used for construction or installation, by a contractor, subcontractor or otherwise, of, in or as a part of any electric generating plant or distribution system, any resource recovery facility where steam or electric energy is produced, or any coal gasification plant or distribution system owned or operated by the United States or any agency thereof created by an act of congress, or by the state of Tennessee or any agency or political subdivision thereof, or any authority organized pursuant to the Rural Electric and Community Services Cooperative Act, compiled in title 65, chapter 25. There is also exempt the sale or use of materials and equipment purchased or used for construction or installation by a contractor, subcontractor or otherwise, of, in or as a part of any electric generating plant, including the transmission substation, owned or operated by any person, so long as such person does not now or intend in the future to generate electricity from a plant located in Tennessee or to distribute electricity to consumers in Tennessee.

(f) There is exempt from the tax imposed by this section or any other provision of this chapter pipes, fittings and materials used to repair or maintain a water utility system owned by a utility district created pursuant to title 7, chapter 82. This exemption applies only to pipes, fittings and materials which become an integral part of the water utility system. This exemption does not apply to any installation of pipes, fittings or materials for any reason other than repair or maintenance of an existing system.

(g) There is exempt from the tax imposed by this section tangible personal property that:

1. Is installed by a dealer in manufactured homes, or furnished to a contractor by the dealer for use in the installation of a manufactured home; and
2. Has previously been subjected to the tax imposed by § 67-6-216.

(h) There is exempt from the tax imposed by this chapter any tangible personal property owned by the United States, or any agency thereof, that is provided to a contractor or subcontractor on a temporary basis for testing pursuant to a contract awarded by the United States, or any agency thereof, to such contractor or subcontractor under the Small Business Innovation Research Program, as that term is defined in 15 U.S.C. § 638(e)(4). The exemption provided by this subsection (h) shall apply only to property that is the subject of the test being performed and property into which the subject of the test must be
incorporated before the testing can occur. The exemption provided by this subsection (h) shall not apply to any equipment, machinery or other property used to conduct the test.

(i) There is exempt from the tax imposed by this chapter any tangible personal property that is provided to a contractor or subcontractor on a temporary basis for testing; provided, that the exemption shall apply only in those instances where the facility at which the testing is undertaken is owned by the United States or any agency of the United States. The exemption provided by this subsection (i) shall apply only to the property that is the subject of the test being performed and property into which the subject of the test must be incorporated before the testing can occur. Under no circumstances shall the exemption apply to property used to conduct the test or to property consumed or destroyed during the test. For this purpose, the term “testing” shall be limited to diagnostic, analytical and scientific testing in a controlled environment, dedicated to testing for the purpose of providing information and findings supportive of the aerodynamic, hypersonic, aeropropulsion, space, missile, aircraft and aerospace technologies and industries.

67-6-217. Aviation fuel — Tax imposed — Advisory task force. [Effective until July 1, 2021.]

(a) Notwithstanding other provisions of this chapter, tax imposed with respect to the sale, the use, the consumption, the distribution and the storage of aviation fuel that is actually used in the operation of airplane or aircraft motors, shall be at the rate of four and one-half percent (4.5%).

(b)(1) The tax imposed and remitted on a person’s purchase, use, consumption, or storage of aviation fuel pursuant to subsection (a) shall not exceed the following:

(A) Twenty-one million three hundred seventy-five thousand dollars ($21,375,000) for the period of July 1, 2015 through June 30, 2016;
(B) Seventeen million seven hundred fifty thousand dollars ($17,750,000) for the period of July 1, 2016 through June 30, 2017;
(C) Fourteen million one hundred twenty-five thousand dollars ($14,125,000) for the period of July 1, 2017 through June 30, 2018; and
(D) Ten million five hundred thousand dollars ($10,500,000) for any tax year occurring on or after July 1, 2018.

(2) For purposes of this subsection (b), “tax year” means a period beginning on July 1 and ending on the following June 30. The commissioner shall establish a process for applying the cap provided by subdivision (b)(1).

67-6-219. Sales of tangible personal property to common carriers for use outside state. [Effective until July 1, 2021.]

(a) Notwithstanding other provisions of this chapter, tax is imposed with respect to sales of tangible personal property to common carriers for use outside this state at the rate of three and seventy-five hundredths percent (3.75%).

(b) Persons seeking to make purchases at the reduced rate provided in this section shall apply to the commissioner for a certificate as provided in § 67-6-528. In order to obtain the reduced tax rate, a copy of the certificate provided for by this section or a fully completed Streamlined Sales Tax certificate of exemption shall be given by the common carrier to each dealer
from which it intends to make purchases at the reduced rate.

(c) If a common carrier purchases property at the reduced rate and the property is used inside the state or the common carrier fails to keep records as required by the commissioner to establish that property purchased at the reduced rate was not used in this state, but was removed from this state for use and consumption outside this state, then the common carrier shall be liable for tax at the full rate provided by § 67-6-203, regardless of whether the carrier had previously obtained a certificate as provided by this section.

(d) This section does not apply to sales of food and food ingredients, alcoholic beverages, tobacco, candy, dietary supplements, prepared food or fuel.

67-6-221. Tax imposed on interstate or international telecommunications services sold to businesses — Privilege tax imposed on modern market telecommunications providers — Penalty. [Effective until July 1, 2021.]

(a) Notwithstanding any other provision of the law to the contrary, interstate or international telecommunication services sold to businesses shall be subject to a tax imposed at the rate of seven and one-half percent (7.5%).

(b) The revenue from a rate equal to one-half percent (0.5%) of the tax shall be deposited in the general fund. The remainder of the revenue generated from the tax imposed by subsection (a) shall be distributed to municipalities and counties in accordance with subsection (c) to mitigate the impact on local governments as the result of assessing the operating property of modern market telecommunications providers as commercial and industrial property rather than as public utility property. The department of revenue shall hold all such revenue until it is first distributed to the local governments on March 20, 2018, or as soon thereafter as possible, to allow sufficient time to determine the correct distribution of revenue under subsection (c).

(c) On or before January 1, 2018, the office of state assessed properties in the office of the comptroller of the treasury shall calculate, for each local government levying an ad valorem property tax, the difference in property tax revenue or comparable in lieu of tax payments received for tax year 2017 that results from assessing the operating property of modern market telecommunications providers as commercial and industrial property rather than as public utility property. These calculations shall be used to calculate each local government’s percentage share of the total reduction in such revenue for tax year 2017 and these percentages shall be forwarded to the department of revenue by January 1, 2018. For all periods beginning on or after June 1, 2017, the department shall distribute the revenue generated from the tax imposed under subsection (a), other than the revenue earmarked for the general fund under subsection (b), to the local governments in proportion to each local government’s percentage share of the total difference in property tax and in lieu of tax revenue for tax year 2017, as reported to the department by the office of state assessed properties pursuant to this subsection (c).

(d)(1) Beginning January 1, 2018, notwithstanding any law to the contrary, every modern market telecommunications provider shall pay an annual privilege tax for the privilege of competing with public utilities to provide telecommunications services in this state.

(2) Except as otherwise provided in subdivision (d)(3), the amount of tax imposed under this subsection (d) shall be equal to the sum of:
(A) The taxpayer’s pro rata share percentage multiplied, as applicable, by:

(i) Four million dollars ($4,000,000), for the tax imposed in 2018;
(ii) Three million dollars ($3,000,000), for the tax imposed in 2019;
(iii) Two million dollars ($2,000,000), for the tax imposed in 2020;
(iv) One million dollars ($1,000,000), for the tax imposed in 2021; and
(v) Zero dollars ($0.00), for the tax imposed in 2022; and

(B) The taxpayer’s pro rata share percentage multiplied, as applicable, by:

(i) Seven hundred fifty thousand dollars ($750,000), for the tax imposed in 2018, 2019, and 2020; and
(ii) Five hundred thousand dollars ($500,000), for the tax imposed in 2021 and 2022.

3 The total privilege tax imposed on a taxpayer under this subsection (d) shall not exceed the difference between:

(A) The aggregate ad valorem taxes and in lieu of tax payments paid by such taxpayer to political subdivisions of this state during the prior tax year; and
(B) The net amount of ad valorem tax and in lieu of tax payments such taxpayer would have paid in the prior tax year had its operating property been classified as public utility property, less the amount of the most recent payment such taxpayer received under § 67-6-222(b).

4 Any taxpayer claiming that subdivision (d)(3) applies to limit its privilege tax liability for a particular tax year shall notify the department of revenue of such claim in the manner prescribed by the department and must prove by clear and convincing evidence that such limitation applies.

5 The privilege tax shall be reported and paid annually to the department of revenue on or before April 20 of each year in the manner prescribed by the department. On or before March 1, 2018, the department shall coordinate with the office of state assessed properties in the office of the comptroller of the treasury to calculate the pro rata share percentage of each taxpayer subject to the privilege tax imposed by this subsection (d) and shall send notice to each such taxpayer providing the taxpayer with its pro rata share percentage and prescribing the manner in which the taxpayer must report and pay the privilege tax imposed by this subsection (d).

6 Notwithstanding any law to the contrary, all moneys received by the department of revenue under this subsection (d) shall be distributed in the following manner:

(A) The revenue from the portion of the tax calculated under subdivision (d)(2)(A) shall be deposited in the general fund; and

(B) The revenue from the portion of the tax calculated under subdivision (d)(2)(B) shall be distributed to the local governments in the same proportion that revenue is distributed to local governments under subsection (c).

7 Any moneys received from a taxpayer that prove by clear and convincing evidence that the limit set forth in subdivision (d)(3) applies for a particular tax year shall be deposited in the general fund and distributed to the local governments in the same relative proportion as those moneys would have been deposited in the general fund under subdivision (d)(6)(A) and distributed to the local governments under subdivision (d)(6)(B) in the same tax year if the limitation on privilege tax liability had not applied.
(8) This subsection (d) shall be repealed on December 31, 2022. No privilege tax shall be levied under this subsection (d) after December 31, 2022. This subdivision (d)(8) shall not absolve any taxpayer of liability for any tax levied under this subsection (d) prior to December 31, 2022.

(9) This subsection (d) shall not apply to a municipal or similar provider of broadband services that makes in lieu of tax payments pursuant to title 7, chapter 52, part 4 or 6, or that makes similar in lieu of tax payments pursuant to a private act.

(e) When any person fails to correctly report on a return the person's sales of interstate or international telecommunications services subject to tax under subsection (a), there shall be imposed a penalty in the amount of ten percent (10%) of the taxes due on such sales or twenty-five percent (25%) of the taxes due on such sales if the commissioner determines that the failure to correctly report such sales is the result of gross negligence. The commissioner may waive such penalty, in whole or in part, if the commissioner determines that the failure is not due to gross negligence, intentional disregard for any tax law or rule promulgated under this title, or fraud.

(f) As used in this section:

1. “Modern market telecommunications provider” means a modern market telecommunications provider, as defined in § 67-5-501, that was operating within the state as of January 1, 2017, and that received an ad valorem tax equity payment under § 67-6-222(b) in at least one (1) of the three (3) years prior to January 1, 2017; and

2. “Pro rata share percentage” means a taxpayer's pro rata share of the total assessed value of all operating property used by modern market telecommunications providers in the state during tax year 2017.

**67-6-224. Qualified headquarters facility.**

(a) A taxpayer that constructs, expands, or remodels a headquarters facility in this state through a minimum capital investment of at least ten million dollars ($10,000,000) and creates at least one hundred (100) new full-time employee jobs in conjunction with the construction, expansion, or remodeling of such facility shall be eligible for a credit of all state sales or use taxes paid to the state of Tennessee, except tax at the rate of one-half percent (0.5%), on the sale or use of qualified tangible personal property that is directly related to the creation of the new full-time employee jobs.

(b) For purposes of this section, the following definitions shall apply:

1. “Facility” means a building or buildings, either newly constructed, expanded, or remodeled, housing headquarters staff employees and located in a county or metropolitan statistical area in this state. A facility may include parking facilities exclusively for the use of headquarters staff employees and visitors; provided, that the parking facilities are built in conjunction with the newly constructed, expanded, or remodeled building or buildings. An expansion of a headquarters facility may be connected to or separate from a headquarters facility or other facilities located in a county or metropolitan statistical area in this state. The facility must be utilized as a headquarters facility for a period of at least ten (10) years from the end of the investment period;

2. “Full-time employee job” means a permanent, rather than seasonal or part-time, employment position that provides employment as a headqu-
ers staff employee to a person for at least thirty-seven and one-half (37.5) hours per week with minimum health care, as described in title 56, chapter 7, part 22, and that pays at least one hundred fifty percent (150%) of the state’s average occupational wage, as defined in § 67-4-2004, for the month of January of the year in which the full-time employee job was created;

(3) “Headquarters facility” means a facility in this state that houses the international or national headquarters of a taxpayer, where headquarters staff employees are located and employed, and where the primary headquarters-related functions and services are performed; provided, that any taxpayer that has filed an application and business plan as a regional headquarters with the department prior to July 1, 2015, shall continue to be eligible for the credit described in subsection (a);

(4) “Headquarters-related functions and services” means those functions involving administrative, planning, research and development, marketing, personnel, legal, computer, or telecommunications services performed by headquarters staff employees on an international or national basis. “Headquarters-related functions and services” does not include functions involving manufacturing, processing, warehousing, distribution, wholesaling, or operating a call center; provided, that any taxpayer that has filed an application and business plan as a regional headquarters with the department prior to July 1, 2015, shall continue to be eligible for the credit described in subsection (a);

(5) “Headquarters staff employees” means executive, administrative, or professional workers performing headquarters-related functions and services. An executive employee is a full-time employee who is primarily engaged in the management of all or part of the enterprise. An administrative employee is a full-time employee who is not primarily involved in manual work and whose work is directly related to management policies or general headquarters operations. A professional employee is an employee whose primary duty is work requiring knowledge of an advanced type in a field of science or learning. This knowledge is characterized by a prolonged course of specialized study;

(6) “Investment period” means that the investment must be made during the period beginning one (1) year prior to the start of the construction, expansion, or remodeling and ending one (1) year after substantial completion of the construction, expansion, or remodeling of the facility. However, in no event shall the investment period exceed six (6) years;

(7) “Minimum capital investment” means an investment by the taxpayer and the lessor to the taxpayer of ten million dollars ($10,000,000), during the investment period, in a building or buildings, either newly constructed, expanded, or remodeled. The minimum capital investment may include, but is not limited to, the purchase price of an existing building and the cost of building materials, labor, equipment, furniture, fixtures, computer software, parking facilities and landscaping, but shall not include land or inventory;

(8) “New full-time employee job” means full-time headquarters staff employee jobs that are new to this state, that increase net employment of the taxpayer above the level of employment in existence immediately prior to the beginning of the investment period, and that, for at least ninety (90) days, did not exist in Tennessee as a job position of the taxpayer or of another business entity. The new full-time employee jobs must be created and filled within the investment period. An employee in a new full-time employee job...
may be employed at a temporary location in this state, pending completion of construction, expansion, or remodeling work at the qualified headquarters facility;

(9) “Qualified headquarters facility” means a headquarters facility where the taxpayer has made the minimum capital investment and has created the required number of new full-time employee jobs to be entitled to the credit provided by this section; and

(10) “Qualified tangible personal property” means building materials, machinery, equipment, furniture and fixtures used exclusively in the qualified headquarters facility and purchased or leased during the investment period and computer software used primarily in the qualified headquarters facility and purchased or leased during the investment period; provided, however, that “qualified tangible personal property” only includes such property that is directly related to the creation of the new full-time employee jobs. “Qualified tangible personal property” does not include supplies or repair parts. “Qualified tangible personal property” does not include any payments with respect to leases of qualifying tangible personal property that extend beyond the investment period. “Qualified tangible personal property” does not include any materials, machinery, equipment, furniture, or fixtures that replace tangible personal property that previously generated a credit under this section.

c) A taxpayer qualifying for this credit must be subject to the taxes imposed by chapter 4, parts 20 and 21 of this title or be an insurance company as defined in § 56-1-102 or be a general partnership that is entitled to compute a job tax credit pursuant to § 67-4-2109(b)(3)(H). The taxpayer shall not be permitted to take advantage of any additional sales tax or other state tax credits, exemptions, or reduced rates that would otherwise be valuable as a result of the same purchases or minimum investment, except the tax credits provided under § 67-4-2009(1) and (3)(A)(ii) and § 67-4-2109(b) and (c). A taxpayer qualifying for this reduced rate shall also not be permitted to utilize the credits available to hospital companies under § 67-4-2009.

d)(1) A taxpayer seeking this credit shall first submit to the commissioner of revenue an application to qualify as a headquarters facility, together with a plan describing the investment to be made, the number of new full-time employee jobs to be created, and a description of such jobs. In the case of a leased facility, the lessor shall also file an application and plan, if any taxes paid by the lessor are to be claimed as part of the credit provided in subsection (a). The application and plan shall be submitted on forms prescribed by the commissioner and shall demonstrate that the requirements of the law will be met.

(2) After approval of the application and business plan, the commissioner shall issue a letter to the taxpayer stating that the taxpayer has tentatively met the requirements for the credit provided for in this section.

(3) In order to receive the credit, the taxpayer must submit a claim for credit, along with documentation as required by the commissioner showing that Tennessee sales or use taxes have been paid to the state on qualified tangible personal property. The taxpayer’s claim for credit of sales or use taxes paid to Tennessee may include such taxes paid by the taxpayer, lessor, in the case of a leased facility, contractors, and subcontractors on sales or use of qualified tangible personal property. Documentation verifying that the minimum investment requirements have been met shall include, but are not
limited to, employment records, invoices, bills of lading, lease agreements, contracts, and all other pertinent records and schedules as required by the commissioner.

(4) In order to receive the credit, the taxpayer must also certify, on a form prescribed by the department, the number of new full-time employee jobs created and that the purchases of qualified tangible personal property for which the credit is claimed are directly related to the creation of such new full-time employee jobs.

(5) The commissioner shall review the claim for credit, and notify the taxpayer of the approved tax credit amount and provide direction for taking the credit. The taxpayer may not take the credit until the commissioner has notified the taxpayer of the amount approved and provided direction to the taxpayer on the proper methodology for taking the credit. The credit may only be taken by the taxpayer making the minimum capital investment of at least ten million dollars ($10,000,000) and creating at least one hundred (100) new full-time employee jobs in conjunction with the construction, expansion, or remodeling of the qualified headquarters facility.

(e) [Deleted by 2019 amendment.]

(f) If the minimum investment requirements are not made within the investment period, or the terms of this section are not met, the taxpayer shall be subject to assessment for any sales or use tax, penalty, or interest that would otherwise have been due and for which credit was taken. The statute of limitations shall not begin to run on these assessments until December 31 of the final year of the ten-year period provided for in subdivision (b)(1).

(g) Credits under this section shall not reduce the taxes earmarked and allocated to education, pursuant to § 67-6-103(c).

(h) Nothing in this section shall require that the taxpayer establish its commercial domicile in this state in order to receive the credit.

(i)(1) The commissioner may, in the commissioner’s sole discretion, enter into a managed compliance agreement with a taxpayer that is entitled to the credit provided in this section. The agreement may provide for:

(A) One (1) or more effective rates to be applied to a predetermined base of purchases subject to the credit provided in this section for a defined period;

(B) A procedure under which the eligible taxpayer can use a direct pay permit issued by the commissioner to purchase tangible personal property without paying to its supplier the tax imposed by this chapter and to remit the tax due on the tangible personal property directly to the department;

(C) A term not to exceed the investment period; provided, that nothing shall preclude the commissioner from entering into a subsequent agreement with the same taxpayer;

(D) The conditions under which the agreement may require modification or termination;

(E) A procedure to resolve disputes concerning the agreement; and

(F) Any other provisions that the commissioner and the eligible taxpayer mutually agree upon to carry out the purposes of this section.

(2) The commissioner may, in the commissioner’s sole discretion, terminate a managed compliance agreement and conduct an audit of an eligible taxpayer if the taxpayer fails to fulfill any of the terms of the agreement and the failure is materially adverse to the commissioner and the taxpayer fails to cure the failure not later than thirty (30) days after the mailing of written
notice of such failure by the commissioner; provided, however, that no such notice need be given in the event the failure is not capable of being cured or the commissioner believes that the collection of any tax required to be collected and paid to the state or of any assessment will be jeopardized by delay.

(3) Other than as authorized by this section and expressly agreed in the managed compliance agreement, nothing in this section shall abridge or alter any requirements, rights or obligations of an eligible taxpayer or the commissioner granted or imposed by statute or regulation.

(4) For purposes of this subsection (i):
   (A) “Eligible taxpayer” means any person that has qualified to receive the credit provided in this section and that, in the opinion of the commissioner, meets the following criteria:
      (i) Demonstrates a willingness and ability to comply with the tax laws of this state;
      (ii) Maintains an acceptable system of internal controls and business records; and
      (iii) Cooperates with the state’s efforts to collect tax; and
   (B) “Managed compliance agreement” means an agreement between the commissioner and an eligible taxpayer that provides for an agreed upon method for calculating the credit due under this section.

67-6-226. Sales tax on cable and wireless cable television services.  [Effective until July 1, 2021.]

Notwithstanding other provisions of this chapter to the contrary, commencing on September 1, 1999, state tax at the rate of eight and one-quarter percent (8.25%) on each sale at retail is imposed with respect to fees for subscription to, access to, or use of television programming or television services provided by a video programming service provider offered for public consumption, except such state tax shall not apply to television programming or television service charges or fees in an amount less than fifteen dollars ($15.00) provided by a video programming service provider offered for public consumption.

67-6-227. Sales tax on satellite television services.  [Effective until July 1, 2021.]

Notwithstanding other provisions of this chapter to the contrary, state tax at the rate of eight and one-quarter percent (8.25%) on each sale at retail is imposed with respect to fees for subscription to, access to, or use of television programming or television services delivered by a provider of direct-to-home satellite service.

67-6-313. Interstate commerce — Repair services — Tax credit.  [Effective until July 1, 2021. See the version effective on July 1, 2021.]

(a) It is not the intention of this chapter to levy a tax upon articles of tangible personal property imported into this state or produced or manufactured in this state for export.

(b) There is exempt from the sales and use tax repair services, including parts and labor, with respect to qualified tangible personal property, where
such services are initiated or completed, or both, by a repair person within this state, and where such property, after having repair services performed on it, is delivered or shipped outside this state. “Qualified tangible personal property” includes machinery, apparatus and equipment, with all associated parts, appurtenances and accessories, that is necessary for:

1. Extracting or removing any natural resources, including, but not limited to, that which is necessary for mining or logging endeavors;
2. Building or improving roads or highways;
3. Land clearing or excavation, or commercial or residential construction;
4. Loading and unloading of containers or truck trailers on and off rail cars, ships, barges or aircraft.

c)(1) There is exempt from the sales and use tax all repair service labor performed with respect to aircraft engine equipment and aircraft mainframes, where the repair services on such aircraft engine equipment or aircraft mainframes are initiated, performed or completed in repair facilities within this state.

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

A) “Aircraft engine equipment” means any aircraft engine, including all associated parts, appurtenances and accessories, for the propulsion of aircraft used by a commercial interstate or international air carrier;
B) “Aircraft mainframes” means any aircraft body, wing, tail assembly, aileron, rudder, landing gear, engine housing, and any other assembly or component integral to the aerodynamic structure of aircraft used by a commercial interstate or international air carrier; and
C) “Repair service labor” includes all labor performed in connection with the repair, maintenance, overhauling, rebuilding, or modifying of aircraft engine equipment or of aircraft mainframes together with any test or inspection necessary or appropriate thereto.

d) There is exempt from the sales and use tax repair services, including parts and labor, to equipment used primarily in interstate commerce, where such repairs are performed outside of Tennessee and the original purchase of such equipment was exempt from sales and use tax.

e) There is exempt from the sales and use tax all repair parts and labor performed on fire protection machinery, apparatus, and equipment, with all associated parts, appurtenances, and accessories owned by fire departments in states other than Tennessee.

f) In order to prevent actual multistate taxation of the acts and privileges subject to tax under this chapter, any taxpayer, upon proof acceptable to the commissioner being submitted that the taxpayer has properly paid sales and use tax in another state on such acts and privileges, shall be allowed a credit against the tax imposed by this chapter to the extent of the amount of such tax properly due and paid in another state.

(g)(1) There is exempt from the sales and use tax all repair service labor performed with respect to railroad rolling stock, where the repair services on such railroad rolling stock are initiated, performed or completed in repair facilities located within this state.

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

A) “Railroad rolling stock” means all railroad equipment, operating on flanged wheels, that is currently being used, or is reasonably intended to be used, principally in interstate commerce; and
(B) “Repair service labor” means labor performed with respect to the repair, maintenance, overhauling, rebuilding, modifying or adapting of railroad rolling stock, together with any test or inspection necessary or appropriate thereto. Such exemption does not apply to repair service labor performed by non-Class 1 railroad companies on Class 1 railroad rolling stock.

(h)(1) There shall be exempt from the sales and use tax the following:

(A) Sales of helicopters or airplanes and related equipment within Tennessee to purchasers who are not residents of the state, where such helicopters or airplanes and related equipment are intended to have a situs out of Tennessee, are in fact removed from Tennessee, within thirty (30) days from the date of their purchase;

(B) Repair and refurbishment services within Tennessee with respect to helicopters and helicopter components and parts that have their situs outside of Tennessee and are removed from Tennessee within fifteen (15) days from the completion of such repair and refurbishment services. “Repair and refurbishment services” as used in this subdivision (h)(1)(B) and in subdivisions (h)(1)(C) and (D) includes, but is not limited to, modifications, conversions, and installations;

(C) In addition to the exemptions in subdivisions (h)(1)(A) and (B), sales of helicopters and related equipment within Tennessee to purchasers who are not residents of the state, where such helicopters and related equipment remain within Tennessee following such sale solely for purposes of repair and refurbishment services, and are in fact removed from Tennessee within fifteen (15) days from the completion of such repair and refurbishment services; and

(D) Repair and refurbishment services within Tennessee with respect to airplanes and airplane components and parts which have their situs outside of Tennessee and are removed from Tennessee within thirty (30) days from the completion of such repair and refurbishment services when such repair or refurbishment services with respect to such airplanes or airplane components or parts are:

(i) Performed pursuant to and by the registered owner of one (1) or more “supplemental type certificates” issued by the federal aviation administration; or

(ii) Performed pursuant to and by an authorized service facility designated by an original equipment manufacturer for such service with respect to aircraft qualifying as “transport category aircraft” under 14 CFR, parts 25, 29, 91 and 121.

(2) As used in this subsection (h), “helicopter” means an aircraft that derives its lift from blades that rotate about an approximately vertical central axis and that can hover in a stationary position while in flight and move laterally or longitudinally from the hover position.

(i) There is exempt from the sales and use tax the sale of all repair parts, accessories, materials and supplies to a common carrier for use on the purchasing carrier’s freight motor vehicles with a maximum gross weight rating classification of Class One or above under § 55-4-113, or trailers, semi-trailers and pole trailers, as defined in §§ 55-1-105 and 55-4-113, and that are shipped via the purchasing carrier under a bill of lading and transported to a destination outside of this state for use outside this state, where the seller and the purchasing carrier are affiliated with one another
such that:

(1) Either corporation directly owns or controls one hundred percent (100%) of the capital stock of the other corporation; or

(2) One hundred percent (100%) of the capital stock of both corporations is directly owned or controlled by a common parent.

(j) There is exempt from sales and use tax, computer media exchange services, where the resulting media is shipped out of Tennessee or to a government agency or nontaxable entity located within Tennessee. “Media exchange services” means the process of transferring stored data from one (1) type of storage medium to another type of storage medium, including, but not limited to, magnetic tapes, magnetic cartridges, CD-ROM, magnetic disks/diskettes, laser disks/diskettes, optical disks/diskettes, or any similar media that is used to store or transfer data from one (1) computer to another.

(k)(1) There is exempt from the sales and use tax all repair and refurbishment service labor performed with respect to large aircraft mainframes, large aircraft engine equipment, and large aircraft accessories, when the repair and refurbishment services on the mainframes, equipment, and accessories are initiated, contracted, performed, or completed in or by an authorized large aircraft service facility, including, but not limited to, repair and refurbishment service labor performed by an authorized large aircraft service facility pursuant to the terms of guaranty, warranty, or service contracts.

(2) In addition to the exemptions provided in subdivisions (h)(1) and (k)(1), there is exempt from the sales and use tax all sales, leases, and purchases of large aircraft and related equipment, and their use, storage, or consumption within this state following the sale, lease, or purchase, when the large aircraft and related equipment have or are intended to have a situs outside of this state following the sale, lease, or purchase, and when the large aircraft and related equipment are in and remain within this state following the sale, lease, or purchase solely for purposes of repair and refurbishment services by an authorized large aircraft service facility, and are in fact removed from this state within fifteen (15) days from the completion of the repair and refurbishment services.

(3) As used in this subsection (k):

(A) “Authorized large aircraft service facility,” “large aircraft,” “large aircraft accessories,” “large aircraft engine equipment,” “large aircraft mainframes,” and “repair and refurbishment services” have the same meanings as defined in § 67-6-302;

(B) “Large aircraft and related equipment” means a large aircraft consisting of a large aircraft mainframe and large aircraft engine equipment, including any large aircraft accessories associated with the large aircraft or aircraft engine, whether installed or uninstalled; and

(C) “Repair and refurbishment service labor” means all labor performed in connection with repair and refurbishment services.

67-6-313. Interstate commerce — Repair services — Tax credit. [Effective on July 1, 2021. See the version effective until July 1, 2021.]

(a) It is not the intention of this chapter to levy a tax upon articles of tangible personal property imported into this state for export or produced or manufac-
tured in this state for export. If the sale of tangible personal property imported into this state is sourced to this state, this exemption shall apply; provided, that the purchaser’s use of the tangible personal property imported into this state is limited to storage, inspection, or repackaging for shipment of the property for export outside this state.

(b) There is exempt from the sales and use tax repair services, including parts and labor, with respect to qualified tangible personal property, where such services are initiated or completed, or both, by a repair person within this state, and where such property, after having repair services performed on it, is delivered or shipped outside this state. “Qualified tangible personal property” includes machinery, apparatus and equipment, with all associated parts, appurtenances and accessories, that is necessary for:

1. Extracting or removing any natural resources, including, but not limited to, that which is necessary for mining or logging endeavors;
2. Building or improving roads or highways;
3. Land clearing or excavation, or commercial or residential construction; or
4. Loading and unloading of containers or truck trailers on and off rail cars, ships, barges or aircraft.

(c)(1) There is exempt from the sales and use tax all repair service labor performed with respect to aircraft engine equipment and aircraft mainframes, where the repair services on such aircraft engine equipment or aircraft mainframes are initiated, performed or completed in repair facilities within this state.

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

(A) “Aircraft engine equipment” means any aircraft engine, including all associated parts, appurtenances and accessories, for the propulsion of aircraft used by a commercial interstate or international air carrier;
(B) “Aircraft mainframes” means any aircraft body, wing, tail assembly, aileron, rudder, landing gear, engine housing, and any other assembly or component integral to the aerodynamic structure of aircraft used by a commercial interstate or international air carrier; and
(C) “Repair service labor” includes all labor performed in connection with the repair, maintenance, overhauling, rebuilding, or modifying of aircraft engine equipment or of aircraft mainframes together with any test or inspection necessary or appropriate thereto.

(d) There is exempt from the sales and use tax repair services, including parts and labor, to equipment used primarily in interstate commerce, where such repairs are performed outside of Tennessee and the original purchase of such equipment was exempt from sales and use tax.

(e) There is exempt from the sales and use tax all repair parts and labor performed on fire protection machinery, apparatus, and equipment, with all associated parts, appurtenances, and accessories owned by fire departments in states other than Tennessee.

(f) In order to prevent actual multistate taxation of the acts and privileges subject to tax under this chapter, any taxpayer, upon proof acceptable to the commissioner being submitted that the taxpayer has properly paid sales and use tax in another state on such acts and privileges, shall be allowed a credit against the tax imposed by this chapter to the extent of the amount of such tax properly due and paid in another state.
(g)(1) There is exempt from the sales and use tax all repair service labor performed with respect to railroad rolling stock, where the repair services on such railroad rolling stock are initiated, performed or completed in repair facilities located within this state.

(2) As used in this subsection (g):
   (A) “Railroad rolling stock” means all railroad equipment, operating on flanged wheels, that is currently being used, or is reasonably intended to be used, principally in interstate commerce; and
   (B) “Repair service labor” means labor performed with respect to the repair, maintenance, overhauling, rebuilding, modifying or adapting of railroad rolling stock, together with any test or inspection necessary or appropriate thereto. Such exemption does not apply to repair service labor performed by non-Class 1 railroad companies on Class 1 railroad rolling stock.

(h)(1) There shall be exempt from the sales and use tax the following:
   (A) Sales of helicopters or airplanes and related equipment within Tennessee to purchasers who are not residents of the state, where such helicopters or airplanes and related equipment are intended to have a situs out of Tennessee, are in fact removed from Tennessee, within thirty (30) days from the date of their purchase;
   (B) Repair and refurbishment services within Tennessee with respect to helicopters and helicopter components and parts that have their situs outside of Tennessee and are removed from Tennessee within fifteen (15) days from the completion of such repair and refurbishment services. “Repair and refurbishment services” as used in this subdivision (h)(1)(B) and in subdivisions (h)(1)(C) and (D) includes, but is not limited to, modifications, conversions, and installations;
   (C) In addition to the exemptions in subdivisions (h)(1)(A) and (B), sales of helicopters and related equipment within Tennessee to purchasers who are not residents of the state, where such helicopters and related equipment are intended to have a situs out of Tennessee, and where such helicopters and related equipment remain within Tennessee following such sale solely for purposes of repair and refurbishment services, and are in fact removed from Tennessee within fifteen (15) days from the completion of such repair and refurbishment services; and
   (D) Repair and refurbishment services within Tennessee with respect to airplanes and airplane components and parts which have their situs outside of Tennessee and are removed from Tennessee within thirty (30) days from the completion of such repair and refurbishment services when such repair or refurbishment services with respect to such airplanes or airplane components or parts are:
      (i) Performed pursuant to and by the registered owner of one (1) or more “supplemental type certificates” issued by the federal aviation administration; or
      (ii) Performed pursuant to and by an authorized service facility designated by an original equipment manufacturer for such service with respect to aircraft qualifying as “transport category aircraft” under 14 CFR, parts 25, 29, 91 and 121.

(2) As used in this subsection (h), “helicopter” means an aircraft that derives its lift from blades that rotate about an approximately vertical central axis and that can hover in a stationary position while in flight and move
laterally or longitudinally from the hover position.

(i) There is exempt from the sales and use tax the sale of all repair parts, accessories, materials and supplies to a common carrier for use on the purchasing carrier's freight motor vehicles with a maximum gross weight rating classification of Class One or above under § 55-4-113, or trailers, semi-trailers and pole trailers, as defined in §§ 55-1-105 and 55-4-113, and that are shipped via the purchasing carrier under a bill of lading and transported to a destination outside of this state for use outside this state, where the seller and the purchasing carrier are affiliated with one another such that:

(1) Either corporation directly owns or controls one hundred percent (100%) of the capital stock of the other corporation; or

(2) One hundred percent (100%) of the capital stock of both corporations is directly owned or controlled by a common parent.

(j) There is exempt from sales and use tax, computer media exchange services, where the resulting media is shipped out of Tennessee or to a government agency or nontaxable entity located within Tennessee. “Media exchange services” means the process of transferring stored data from one (1) type of storage medium to another type of storage medium, including, but not limited to, magnetic tapes, magnetic cartridges, CD-ROM, magnetic disks/diskettes, laser disks/diskettes, optical disks/diskettes, or any similar media that is used to store or transfer data from one (1) computer to another.

(k)(1) There is exempt from the sales and use tax all repair and refurbishment service labor performed with respect to large aircraft mainframes, large aircraft engine equipment, and large aircraft accessories, when the repair and refurbishment services on the mainframes, equipment, and accessories are initiated, contracted, performed, or completed in or by an authorized large aircraft service facility, including, but not limited to, repair and refurbishment service labor performed by an authorized large aircraft service facility pursuant to the terms of guaranty, warranty, or service contracts.

(2) In addition to the exemptions provided in subdivisions (h)(1) and (k)(1), there is exempt from the sales and use tax all sales, leases, and purchases of large aircraft and related equipment, and their use, storage, or consumption within this state following the sale, lease, or purchase, when the large aircraft and related equipment have or are intended to have a situs outside of this state following the sale, lease, or purchase, and when the large aircraft and related equipment are in and remain within this state following the sale, lease, or purchase solely for purposes of repair and refurbishment services by an authorized large aircraft service facility, and are in fact removed from this state within fifteen (15) days from the completion of the repair and refurbishment services.

(3) As used in this subsection (k):

(A) “Authorized large aircraft service facility,” “large aircraft,” “large aircraft accessories,” “large aircraft engine equipment,” “large aircraft mainframes,” and “repair and refurbishment services” have the same meanings as defined in § 67-6-302;

(B) “Large aircraft and related equipment” means a large aircraft consisting of a large aircraft mainframe and large aircraft engine equipment, including any large aircraft accessories associated with the large aircraft or aircraft engine, whether installed or uninstalled; and

(C) “Repair and refurbishment service labor” means all labor performed in connection with repair and refurbishment services.
67-6-317. Public safety or public works-related goods sold to nonprofit property owners association.

(a) There is exempted from the sales and use tax imposed by this chapter any sales of public safety or public works-related goods to a nonprofit property owners association that has received a determination of exemption from the internal revenue service under the Internal Revenue Code § 501(c)(4) and that has more than one hundred (100) miles of roads maintained by the property owners association.

(b) Any exemption granted under subsection (a) only applies to sales made directly to the exempt property owners association. There is no exemption for sales made to an independent contractor with any such exempt association.

(c) No dealer shall sell, and no property owners association shall use, any tangible personal property under the claim that the tangible personal property is exempt from the sales or use tax levied by this chapter, where the exemption from taxation is claimed because the user is entitled to an exemption under subsection (a), unless the user has issued to it by the commissioner an exemption certificate declaring that such association is entitled to the exemption provided for by subsection (a). An association that has obtained an exemption certificate issu ed by the commissioner shall provide a dealer with a copy of the certificate of exemption, which must include the exemption account number included on the certificate issued by the commissioner. The dealer shall maintain a copy of such exemption in the dealer’s records to document that the purchaser was entitled to the exemption.

(d) In the event a property owners association uses its exemption authorization to purchase other goods not exempted, the association shall be liable for applicable tax, penalty, and interest.

(e) The exemption granted under subsection (a) is limited to twenty-five thousand dollars ($25,000) in sales and use taxes each year that would otherwise be imposed.

(f) For purposes of this section, “public safety or public works-related goods” means equipment and supplies used:
   
   (1) In the construction or maintenance of utilities, roads, culverts, curbs, sidewalks, parks, landscaping, docks and dock facilities, sewage and wastewater systems, and flood control and drainage systems, including storm water sewers and drains; and
   
   (2) For firefighting, security, and emergency medical services, including fire alarm and emergency alert systems.

67-6-318. Qualified building materials used in construction, expansion, or renovation of one or more qualified, new, or expanded warehouse or distribution facilities.

(a) Subject to the approval set forth in subdivision (c)(2), there is a sales and use tax exemption on qualified building materials used in the construction, expansion, or renovation of one (1) or more qualified, new, or expanded warehouse or distribution facilities as defined in § 67-6-102(44)(H); provided, that the taxpayer or a lessor, or both, makes a capital investment of at least one billion dollars ($1,000,000,000) in the construction or renovation of such facilities and related facilities at the same location within the qualified capital investment period.

(b) For purposes of this section:
“Qualified building materials” means tangible personal property purchased during the period between July 1, 2019, and December 31, 2026, that becomes part of the real property comprising the facility; and

“Qualified capital investment period” means a period beginning on or after January 1, 2019, and ending no later than December 31, 2026.

(c)(1) A taxpayer seeking the exemption provided under this section shall submit an application for exemption to the commissioner of revenue, describing the investment to be made during the qualified capital investment period. The application must be submitted on forms prescribed by the commissioner and demonstrate that the requirements of this section will be met.

(2) After approval of the exemption application, the commissioner shall issue a certificate of exemption to the taxpayer.

(d) If any requirements of this section are not met, the taxpayer is liable for any sales or use tax, penalty, or interest that would otherwise have been due with respect to items purchased on a tax-exempt basis pursuant to this section. Notwithstanding any other law to the contrary, the amount of any tax due under this subsection (d) must be assessed within three (3) years of December 31 of the final year of the investment period; provided, however, that such time to assess may be extended pursuant to § 67-1-1501(b)(5).

(e) An application with the department of revenue for the exemption provided in this section must be filed prior to October 1, 2019.

67-6-322. Religious, educational, and charitable institutions — Energy resource recovery facilities. [Effective until July 1, 2021. See the version effective on July 1, 2021.]

(a) There is exempt from this chapter any sales or use tax upon tangible personal property, computer software, or taxable services sold, given, or donated to any:

(1) Church, temple, synagogue or mosque;
(2) University, including the Agricultural Foundation for Tennessee Tech, Inc.;
(3) College;
(4) School;
(5) Orphanage;
(6) Institution organized for the principal purpose of placing homeless children in foster homes;
(7) Home for the aged;
(8) Hospital;
(9) Girls’ club;
(10) Boys’ club;
(11) Community health council;
(12) Volunteer fire department;
(13) Organ bank for transplantable tissue;
(14) Organization whose primary objective is to promote the spiritual and recreational environment of members of the armed services of the United States, such as the United Service Organization as it is presently conducted;
(15) Historical property owned by the state and operated by the historical commission or under the jurisdiction of the commission as authorized by § 4-11-108;
(16) Nonprofit community blood bank;

(17) Senior citizen service centers that meet the standards set by the Tennessee commission on aging and disability for eligibility to receive state funds; or

(18) Nonprofit corporation whose primary function involves the annual organization, promotion, and sponsorship of a statewide talent and beauty pageant in which contestants compete for scholarships, awarded by such nonprofit corporation, as well as for the opportunity of being Tennessee's representative and contestant in an annual nationwide talent and beauty pageant with which such nonprofit corporation is affiliated.

(b) In addition to the exempt institutions, organizations and historical properties described in subsection (a), there are also exempt such other institutions and organizations that have received a determination of exemption from the internal revenue service under the Internal Revenue Code § 501(c)(3), (c)(5) labor organizations, (c)(13) not-for-profit cemetery companies, and (c)(19) (26 U.S.C. § 501(c)(3), (5), (13) and (19), respectively), and that are currently operating under it, and any war-time era veterans' organization that has received a determination of exemption from the internal revenue service under the Internal Revenue Code § 501(c)(4) (26 U.S.C. § 501(c)(4)), and that is chartered by the United States congress. The exemption provided for herein does not apply to purchases of bingo cards or equipment by such organizations.

(c) Any exemption granted under subsection (a) or (b) shall be limited to such institutions, organizations or historical properties that are not organized or operated for profit, and no part of the net earnings of which inures to the benefit of any private shareholder or individual.

(d) Any exemption granted under subsections (a)-(c) shall only apply to sales, gifts, or donations made directly to the exempt institution, organization or historical property. There shall be no exemption upon sales, gifts, or donations made to an independent contractor with any such exempt institution, organization or historical property.

(e) No dealer shall sell, give or donate, and no user shall use, any tangible personal property under the claim that the tangible personal property is exempt from the sales or use tax levied by this chapter, where the exemption from taxation is claimed because the vendee or user is an educational, religious or charitable institution or organization or historical property and is entitled to an exemption as such institution or organization or historical property under subsections (a)-(d), unless the vendee or user shall have issued to it by the commissioner an exemption certificate declaring that such institution or organization or historical property is entitled to the exemption provided for by subsections (a)-(d); provided, that, in the case of a sale to a person who is not a resident or domiciliary of Tennessee, an exemption certificate issued by the commissioner is not required, if the dealer shall instead receive from such person a copy of a current and valid exemption from federal taxation under 26 U.S.C. § 501(c)(3). Persons who have obtained an exemption certificate issued by the commissioner shall provide their vendors with a copy of the certificate or a fully completed streamlined sales tax certificate of exemption, which must include the exemption account number included on the certificate issued by the commissioner. The dealer shall maintain a copy of such exemption in the dealer's records to document that the purchaser was entitled to the exemption. In the case of a sale to a person who is not a resident or domiciliary of
Tennessee, an exemption certificate issued by the commissioner is not re-
quired, if the dealer shall instead receive from such person a copy of a current
and valid exemption from federal taxation under 26 U.S.C. § 501(c)(3). The
dealer shall maintain a copy of such exemption in the dealer’s records to
document that the purchaser was entitled to the exemption.

(f) The commissioner is authorized to make final determination after
hearing, if demanded, as to whether any institution or organization or
historical property is entitled to the benefit of the exemption established by
subsections (a)-(d). The commissioner is authorized to issue exemption certifi-
cates to institutions and organizations and historical properties that, in the
commissioner’s judgment, are entitled thereto.

(g) No county having a metropolitan form of government is authorized
under this chapter to levy any tax on the sale, purchase, use, consumption or
distribution of steam and chilled water produced and distributed by an energy
resource recovery facility operated in a county with a metropolitan form of
government.

(h) No tax exemption as permitted by this section applies to the purchase of
bingo materials or supplies or equipment or cards.

(i) There is also exempt from this chapter any sales or use tax upon tangible
personal property or taxable services sold, given, or donated to any Tennessee
historic property preservation or rehabilitation entity as defined in § 67-4-
2004. This exemption is subject to subsections (d), (e), and (f).

67-6-322. Religious, educational, and charitable institutions — Energy
resource recovery facilities. [Effective on July 1, 2021. See
the version effective until July 1, 2021.]

(a) There is exempt from this chapter any sales or use tax upon tangible
personal property, computer software, or taxable services sold, given, or donated
to any:

(1) Church, temple, synagogue or mosque;

(2) University, including the Agricultural Foundation for Tennessee Tech,
Inc.;

(3) College;

(4) School;

(5) Orphanage;

(6) Institution organized for the principal purpose of placing homeless
children in foster homes;

(7) Home for the aged;

(8) Hospital;

(9) Girls’ club;

(10) Boys’ club;

(11) Community health council;

(12) Volunteer fire department;

(13) Organ bank for transplantable tissue;

(14) Organization whose primary objective is to promote the spiritual and
recreational environment of members of the armed services of the United
States, such as the United Service Organization as it is presently conducted;

(15) Historical property owned by the state and operated by the historical
commission or under the jurisdiction of the commission as authorized by
§ 4-11-108;
(16) Nonprofit community blood bank;
(17) Senior citizen service centers that meet the standards set by the Tennessee commission on aging and disability for eligibility to receive state funds; or
(18) Nonprofit corporation whose primary function involves the annual organization, promotion, and sponsorship of a statewide talent and beauty pageant in which contestants compete for scholarships, awarded by such nonprofit corporation, as well as for the opportunity of being Tennessee’s representative and contestant in an annual nationwide talent and beauty pageant with which such nonprofit corporation is affiliated.

(b) In addition to the exempt institutions, organizations and historical properties described in subsection (a), there are also exempt such other institutions and organizations that have received a determination of exemption from the internal revenue service under the Internal Revenue Code § 501(c)(3), (c)(5) labor organizations, (c)(13) not-for-profit cemetery companies, and (c)(19) (26 U.S.C. § 501(c)(3), (5), (13) and (19), respectively), and that are currently operating under it, and any war-time era veterans’ organization that has received a determination of exemption from the internal revenue service under the Internal Revenue Code § 501(c)(4) (26 U.S.C. § 501(c)(4)), and that is chartered by the United States congress. The exemption provided for herein does not apply to purchases of bingo cards or equipment by such organizations.

(c) Any exemption granted under subsection (a) or (b) shall be limited to such institutions, organizations or historical properties that are not organized or operated for profit, and no part of the net earnings of which inures to the benefit of any private shareholder or individual.

(d) Any exemption granted under subsections (a)-(c) shall only apply to sales, gifts, or donations made directly to the exempt institution, organization or historical property. There shall be no exemption upon sales, gifts, or donations made to an independent contractor with any such exempt institution, organization or historical property.

(e) No dealer shall sell, give or donate, and no user shall use, any tangible personal property under the claim that the tangible personal property is exempt from the sales or use tax levied by this chapter, where the exemption from taxation is claimed because the vendee or user is an educational, religious or charitable institution or organization or historical property and is entitled to an exemption as such institution or organization or historical property under subsection (a)-(d), unless the vendee or user shall have issued to it by the commissioner an exemption certificate declaring that such institution or organization or historical property is entitled to the exemption provided for by subsections (a)-(d); provided, that, in the case of a sale to a person who is not a resident or domiciliary of Tennessee, an exemption certificate issued by the commissioner is not required, if the dealer shall instead receive from such person a copy of a current and valid exemption from federal taxation under 26 U.S.C. § 501(c)(3). Persons who have obtained an exemption certificate issued by the commissioner shall provide their vendors with a copy of the certificate or a fully completed streamlined sales tax certificate of exemption, which must include the exemption account number included on the certificate issued by the commissioner. The dealer shall maintain a copy of such exemption in the dealer’s records to document that the purchaser was entitled to the exemption. In the case of a sale to a person who is not a resident or domiciliary of Tennessee, an exemption certificate issued by the commissioner is not required, if the dealer...
shall instead receive from such person a copy of a current and valid exemption from federal taxation under 26 U.S.C. § 501(c)(3). The dealer shall maintain a copy of such exemption in the dealer’s records to document that the purchaser was entitled to the exemption.

(f) The commissioner is authorized to make final determination after hearing, if demanded, as to whether any institution or organization or historical property is entitled to the benefit of the exemption established by subsections (a)-(d). The commissioner is authorized to issue exemption certificates to institutions and organizations and historical properties that, in the commissioner’s judgment, are entitled thereto.

(g) The sale, purchase, use, consumption or distribution of energy in the form of steam or chilled water produced and distributed by an energy resource recovery facility operated in a county with a metropolitan form of government is exempt from sales or use tax.

(h) No tax exemption as permitted by this section applies to the purchase of bingo materials or supplies or equipment or cards.

(i) There is also exempt from this chapter any sales or use tax upon tangible personal property or taxable services sold, given, or donated to any Tennessee historic property preservation or rehabilitation entity as defined in § 67-4-2004. This exemption is subject to subsections (d), (e), and (f).
protective coatings;

(9) Chemicals and supplies used in air or water pollution control facilities for pollution control purposes;

(10) Periodicals printed entirely on newsprint or bond paper and distributed no less frequently than monthly and advertising supplements or other printed matter distributed with the periodicals;

(11) The sale of United States and Tennessee flags sold by a nonprofit organization;

(12) Industrial materials and explosives for future processing, manufacture or conversion into articles of tangible personal property for resale where the industrial materials and explosives become a component part of the finished product or are used directly in fabricating, dislodging, or sizing;

(13) Materials, containers, labels, sacks, bags or bottles used for packaging tangible personal property when the property is either sold in the containers, sacks, bags or bottles directly to the consumer or when such use is incidental to the sale of the property for resale;

(14) Film, including negatives, used in the business of printing, or provided to a business of printing to obtain the services of the business; or typesetting used in the business of printing and materials necessary for the typesetting, or materials necessary for typesetting provided to a business of printing to obtain the services of the business;

(15) Home communication terminals, remote control devices, and other similar equipment purchased on or after January 1, 2000, by a video programming service provider and held for sale or lease to its subscribers;

(16) Utility poles, anchors, guys, and conduits;

(17) Aircraft used for and owned by a person providing flight training;

(18) Prepared food, as defined in § 67-6-102, when sold pursuant to programs authorized by a federal, state or local government entity or by the school governing body, that provide meals for public or private school students in grades kindergarten through twelve (K-12). This subdivision (a)(18) shall not be interpreted to exempt a public or private school or school support group from paying sales or use taxes on the purchase price of prepared food or food and food ingredients, as defined by § 67-6-102, purchased for resale by the school or a school support group at fund raisers, sports events and the like pursuant to § 67-6-229, or to exempt sales from any vending machine, including vending machines located on the premises of public or private schools, from the sales tax;

(19) Copies of hospital records, as defined in § 68-11-302, sold or otherwise provided to an attorney, agent or other authorized representative acting in a lawsuit on behalf of any hospital that has received a determination of exemption as provided in § 67-6-322(e); and

(20) OEM headquarters company vehicles.

(b) Charges for the following services are exempt from the tax imposed by this chapter:

(1) Coin-operated telephone service;

(2) Automatic teller machine (ATM) service. The seller of the ATM service shall be deemed the user and consumer of telecommunication services necessary to deliver the ATM service; and

(3) Wire transfer or other services provided by any corporation defined as a financial institution under § 67-4-2004. The seller of the wire transfer or other services shall be deemed the user and consumer of telecommunication
services necessary to deliver the wire transfer service.

(c) No provision of this section shall be construed to amend or repeal § 67-6-301.

(d) The sale at retail, use, consumption, distribution and storage for use or consumption in this state of the following specified digital goods is specifically exempted from the tax imposed by this chapter:

(1) Any specified digital good, if the sale, lease, licensing and use of the equivalent in a tangible form is exempt from taxation under this chapter; and

(2) Specified digital goods provided without charge for less than permanent use.

67-6-329. Miscellaneous exemptions. [Effective on July 1, 2021. See the version effective until July 1, 2021.]

(a) The sale at retail, the use, the consumption, the distribution and the storage for use or consumption in this state of the following tangible personal property is specifically exempted from the tax imposed by this chapter:

(1) “Gasoline” upon which a privilege tax per gallon is paid, and not refunded; except that premixed engine fuel containing gasoline and oil, produced for use in two-cycle engines and not for use in the propulsion of an aircraft, vessel or any other vehicle, that is sold in containers of one gallon (1 gal.) or less, is not exempt from the tax imposed by this chapter;

(2) Motor fuel taxed per gallon by chapter 3, part 2 of this title;

(3) Textbooks and workbooks;

(4) All sales made to the state or any county or municipality within the state;

(5) Liquified gas and compressed natural gas taxed by chapter 3, part 11 of this title;

(6) Magazines and books that are distributed and sold to consumers by United States mail or common carrier, where the only activities of the seller or distributor in this state are those activities having to do with the printing, storage, labeling and/or delivery to the United States mail or common carrier of the magazines or books, or the maintenance of raw materials with respect to those activities, notwithstanding that the seller or distributor maintains employees in the state solely in connection with the production and quality control of the printing, storage, labeling and/or delivery, or in connection with news gathering and reporting;

(7) Parking privileges sold by colleges, universities, technical institutes or state colleges of applied technology to students at those institutions;

(8) Materials used for the lining or protective coating of railroad tank cars and any charges made for the installation or repair of the linings or protective coatings;

(9) Chemicals and supplies used in air or water pollution control facilities for pollution control purposes;

(10) Periodicals printed entirely on newsprint or bond paper and distributed no less frequently than monthly and advertising supplements or other printed matter distributed with the periodicals;

(11) The sale of United States and Tennessee flags sold by a nonprofit organization;
(12) Industrial materials and explosives for future processing, manufacture or conversion into articles of tangible personal property for resale where the industrial materials and explosives become a component part of the finished product or are used directly in fabricating, dislodging, or sizing;

(13) Materials, containers, labels, sacks, bags or bottles used for packaging tangible personal property when the property is either sold in the containers, sacks, bags or bottles directly to the consumer or when such use is incidental to the sale of the property for resale;

(14) Film, including negatives, used in the business of printing, or provided to a business of printing to obtain the services of the business; or typesetting used in the business of printing and materials necessary for the typesetting, or typesetting, or materials necessary for typesetting provided to a business of printing to obtain the services of the business;

(15) Home communication terminals, remote control devices, and other similar equipment purchased on or after January 1, 2000, by a video programming service provider and held for sale or lease to its subscribers;

(16) Utility poles, anchors, guys, and conduits;

(17) Aircraft used for and owned by a person providing flight training;

(18) Prepared food, as defined in § 67-6-102, when sold pursuant to programs authorized by a federal, state or local government entity or by the school governing body, that provide meals for public or private school students in grades kindergarten through twelve (K-12). This subdivision (a)(18) shall not be interpreted to exempt a public or private school or school support group from paying sales or use taxes on the purchase price of prepared food or food and food ingredients, as defined by § 67-6-102, purchased for resale by the school or a school support group at fund raisers, sports events and the like pursuant to § 67-6-229, or to exempt sales from any vending machine, including vending machines located on the premises of public or private schools, from the sales tax;

(19) Dyed diesel fuel purchased for off-road use as provided in chapter 3 of this title;

(20) Charges for subscription to, access to, or use of video programming services or direct-to-home satellite television services subject to the tax levied under chapter 4, part 24, of this title;

(21) Copies of hospital records, as defined in § 68-11-302, sold or otherwise provided to an attorney, agent or other authorized representative acting in a lawsuit on behalf of any hospital that has received a determination of exemption as provided in § 67-6-322(e); and

(22) OEM headquarters company vehicles.

(b) Charges for the following services are exempt from the tax imposed by this chapter:

(1) Coin-operated telephone service;

(2) Automatic teller machine (ATM) service. The seller of the ATM service shall be deemed the user and consumer of telecommunication services necessary to deliver the ATM service; and

(3) Wire transfer or other services provided by any corporation defined as a financial institution under § 67-4-2004. The seller of the wire transfer or other services shall be deemed the user and consumer of telecommunication services necessary to deliver the wire transfer service.

(c) No provision of this section shall be construed to amend or repeal
§ 67-6-301.
(d) The sale at retail, use, consumption, distribution and storage for use or consumption in this state of the following specified digital goods is specifically exempted from the tax imposed by this chapter:
   (1) Any specified digital good, if the sale, lease, licensing and use of the equivalent in a tangible form is exempt from taxation under this chapter; and
   (2) Specified digital goods provided without charge for less than permanent use.

67-6-330. Amusement tax exemptions.
(a) There is exempt from the sales tax on admission, dues or fees imposed by § 67-6-212:
   (1) Events or activities held for or sponsored by public or private schools, kindergarten through grade twelve (K-12);
   (2) The sales price of admissions to county or agricultural fairs and any dues, fees or charges that enable or entitle the entrant to engage in any otherwise taxable amusement activity held therein, including games, rides, shows, contests, or grandstand events;
   (3) Membership application fees, dues or contributions, except that portion attributable to admission prices, paid to institutions and organizations that have received a determination of exemption from the internal revenue service, pursuant to 26 U.S.C. § 501(c)(3), (8) and (19) and that are currently operating under such exemption;
   (4) Membership fees or dues of those organizations listed in Major Group No. 86 of the Standard Industrial Classification Manual of 1972, as amended, prepared by the office of management and budget of the federal government;
   (5)(A) The sales price of admissions to amusement or recreational activities conducted, produced, or provided by:
      (i) Not-for-profit museums, not-for-profit entities that operate historical sites and not-for-profit historical societies, organizations or associations;
      (ii) Organizations that have received and currently hold a determination of exemption from the internal revenue service, pursuant to 26 U.S.C. § 501(c);
      (iii) Organizations listed in Major Group No. 86 of the Standard Industrial Classification Manual of 1972, as amended, prepared by the office of management and budget of the federal government; or
      (iv) Tennessee historic property preservation or rehabilitation entities, as defined in § 67-4-2004;
   (B) The exemption provided for in this subdivision (a)(5) shall not apply unless such entities, societies, associations or organizations promote, produce and control the entire production or function;
   (6) Fees in any form resulting from the production of television, film, radio or theatrical presentations. This exemption shall not include any dues, fees or other charges made on or for the admission of the public to such presentations;
   (7) Events or activities conducted upon rivers and waterways in this state whose continued use for recreational purposes is contingent upon revenue produced pursuant to agreements entered into between the state of Tennes-
see and the federal government, or an agency thereof, which agreements provide for the establishment of a trust fund for such purposes; provided, that this exemption shall prevail only if the annual distribution of funds to the state from such trust fund exceeds that amount of revenue to the state that would otherwise be produced if the amusement tax under § 67-6-212 were imposed on such events or activities, as determined by the fiscal review committee;

(8) All sales contractually committed and/or for which money has been paid prior to June 1, 1984;

(9) Athletic events for participants under eighteen (18) years of age sponsored by civic or not-for-profit organizations;

(10) The sales price of admissions to amusement or recreational activities or facilities conducted, produced and controlled by municipalities or counties;

(11) Membership assessments for capital improvements made by a recreation club, community service organization or country club against its members;

(12) The sales price of admissions to beauty pageants or rodeos and any fees, charges or rental fees that entitle or enable the entrant to engage in any otherwise taxable amusement activity held therein that are conducted, produced or provided by a nonprofit civic organization; provided, that this exemption only applies to beauty pageants or rodeos that have been held in the same city for thirty (30) years or longer;

(13) The sales price of admissions to musical concerts conducted, produced or provided by not-for-profit community group associations, if such associations promote, produce and control such concerts;

(14) Any event or activity held by an employer solely for the benefit of the employer’s employees; provided, that such event or activity must be entirely produced and controlled by such employer;

(15) Fishing tournament registration fees collected from tournament participants;

(16) Admission, dues, fees, or other charges paid to any person principally engaged in offering services or facilities for the development or preservation of physical fitness through exercise or other active physical fitness conditioning. This exemption shall apply to services and facilities such as gyms, fitness centers, fitness studios, high intensity interval training, cross training, ballet barre, pilates, yoga, spin classes, aerobics classes, and other substantially similar services and facilities that principally provide for exercise or other active physical fitness conditioning. This exemption shall not apply to persons principally engaged in offering recreational activities such as country clubs, tennis clubs, golf courses, and other substantially similar recreational facilities and activities;

(17) Any entry fee or charge that allows an entrant to participate in a contest or tournament or charity horse show;

(18) Charges made by landowners for permission to hunt native wildlife on their property that is located partially or entirely in a county having a population of not less than thirty-one thousand nine hundred (31,900) nor more than thirty-two thousand (32,000), according to the 1980 federal census or any subsequent federal census; and

(19) The fee paid by an establishment operated primarily for the sale of prepared food to one (1) or more persons for the purpose of providing live
entertainment to the patrons of such establishment.

(b) The exemptions provided in subdivisions (a)(6) and (11) do not apply to interscholastic sports held or sponsored by private or public colleges or universities.

67-6-349. Petroleum products sold to air common carriers for flights outside United States. [Effective until July 1, 2021.]

(a) There is exempt from the tax imposed by this chapter fuel and petroleum products sold to or used by an air common carrier, certified by the carrier to be used for consumption, shipment or storage in the conduct of its business as an air common carrier for a flight destined for or continuing from a location outside the United States.

(b)(1) If a dealer pays to the department the tax imposed by this chapter on fuel or petroleum products sold to an air common carrier, and if the fuel or petroleum products are subsequently used by the air common carrier in a manner that renders the product exempt from tax under subsection (a), then the dealer may take a credit equal to the amount of tax previously paid to the department, if all of the following conditions are satisfied:

(A) Prior to taking the credit, the dealer must give the air common carrier a credit or refund of any tax collected from the air common carrier that is the basis for the credit taken under this subsection (b);

(B) The dealer must obtain documentation from the air common carrier that is sufficient to establish that the fuel or petroleum products were used in an exempt manner as provided in subsection (a); and

(C) The credit is taken by the dealer on a return filed pursuant to this chapter within one (1) year of the date the tax was paid to the department.

(2) The dealer must maintain documentation that is sufficient to establish entitlement to the credit, and the documentation must be maintained for a period of three (3) years from December 31 of the year in which the credit is taken on the return. Nothing in this subsection (b) shall be construed as preventing the dealer from filing a claim for refund pursuant to § 67-1-1802 in lieu of taking a credit on the tax return; provided, however, that in no case shall the same tax be subject to a refund and a credit.

67-6-385. Sales to common carriers for use outside state — Certificate — Records — Exceptions. [Effective on July 1, 2021.]

(a) Notwithstanding other provisions of this chapter, except as provided in this section, no tax is imposed with respect to sales of tangible personal property to common carriers for use outside this state.

(b) Persons seeking to make such purchases exempt from tax shall apply to the commissioner for a certificate as provided in § 67-6-528 to obtain the exemption. The common carrier must give a copy of the certificate or a fully completed Streamlined Sales Tax certificate of exemption to each dealer from which it intends to make purchases exempt from tax.

(c) If a common carrier fails to keep records as required by the commissioner to establish that property purchased exempt from tax was not used in this state but was removed from this state for use and consumption outside this state, then the common carrier shall be liable for tax on the property at the full rate provided by § 67-6-203 regardless of whether the carrier had previously obtained a certificate as provided by this section; provided, that the carrier shall be given credit for any tax paid on the property pursuant to chapter 4, part 23
of this title.
(d) This section does not apply to sales of food and food ingredients, candy, dietary supplements, prepared food, alcoholic beverages, tobacco and fuel.

67-6-386. Sale or use of aviation fuel. [Effective on July 1, 2021.]

Notwithstanding other provisions of this chapter, no tax is imposed with respect to the sale or use of aviation fuel that is actually used in the operation of airplane or aircraft motors.

67-6-407. Dealers of aviation fuel — Reports. [Effective until July 1, 2021. See the version effective on July 1, 2021.]

(a) The commissioner shall require each dealer of aviation fuel to file an additional report stating the total amount in gallons of aviation fuel sold and the dollar amount collected from such sales. The report required by this section shall be filed on a monthly or quarterly basis, as determined by the commissioner in the commissioner's discretion. Such report shall be filed no later than thirty (30) days after the last day of the sales period covered by the report. The report shall be supplemental to any other report required by the department and shall be on a form prescribed by the department.

(b) In addition to any other penalty provided by law, the commissioner is authorized to assess any taxpayer required to file the report described in subsection (a) a civil penalty of five hundred dollars ($500) for failure to file such report. Such penalty shall be subject to waiver under § 67-1-803.

67-6-407. Dealers of aviation fuel — Reports. [Effective on July 1, 2021. See the version effective until July 1, 2021.]

(a) The commissioner has the authority to require any person who pays the tax imposed by this chapter or by chapter 4, part 23 or 24 of this title, if the tax is to be allocated to the transportation equity trust fund pursuant to § 67-6-103, to file a quarterly report not later than thirty (30) days after the last day of the preceding calendar quarter. The report shall be executed under penalty of perjury, stating the total amount in gallons of fuel subject to the tax, the dollar amount of tax paid on the sales or uses, and any other information as may be required by the commissioner on forms prescribed by the department. The report required in this subsection (a) shall be supplemental to any other required by the commissioner or the department. A failure to file the report shall result in a civil penalty to be determined by the commissioner pursuant to the authority contained in § 67-6-402.

(b) The commissioner may furnish the reports authorized by this section, or the tax information contained in the reports, to the department of transportation solely for the purpose of administering the transportation equity trust fund. Any information released to the department of transportation pursuant to this subsection (b) shall be subject to chapter 1, part 17 of this title, including the criminal penalties contained in chapter 1, part 17 of this title.

67-6-408. Transportation equity trust fund — Commissioners’ annual report. [Effective until July 1, 2021. See the version effective on July 1, 2021.]

On or before December 31 each year, the commissioners of revenue and transportation shall jointly publish and provide to the governor and to each
member of the general assembly a report that summarizes the amount and source of all moneys received and deposited during the preceding fiscal year in the transportation equity fund, created pursuant to § 67-6-103(b). The report shall also include the following information:

(1) The total amount of moneys received under this chapter from the sale, use, consumption, distribution, or storage for use or consumption of fuels used for aviation;

(2) The total amount of moneys received under this chapter from the sale, use, consumption, distribution, or storage for use or consumption of fuels used for railways;

(3) The total amount of moneys received under this chapter from the sale, use, consumption, distribution, or storage for use or consumption of fuels used for water carriers;

(4) The portion of the transportation equity trust fund used by the department of transportation for railway-related programs and activities, including a brief description of each such program and activity receiving such funding;

(5) The portion of the transportation equity trust fund used by the department of transportation for aeronautics-related programs and activities, including a brief description of each such program and activity receiving such funding; and

(6) The portion of the transportation equity trust fund used by the department of transportation for waterways-related programs and activities, including a brief description of each such program and activity receiving such funding.

67-6-408. Transportation equity trust fund — Commissioners' annual report. [Effective on July 1, 2021. See the version effective until July 1, 2021.]

On or before December 31 each year, the commissioners of revenue and transportation shall jointly publish and provide to the governor and to each member of the general assembly a report that summarizes the amount and source of all moneys received and deposited during the preceding fiscal year in the transportation equity trust fund, created pursuant to § 67-6-103(b). The report shall also include the following information:

(1) The total amount of moneys received under this chapter and § 67-4-2701 from the sale, use, consumption, distribution, or storage for use or consumption of fuels used for aviation;

(2) The total amount of moneys received under this chapter from the sale, use, consumption, distribution, or storage for use or consumption of fuels used for railways;

(3) The total amount of moneys received under this chapter from the sale, use, consumption, distribution, or storage for use or consumption of fuels used for water carriers;

(4) The portion of the transportation equity trust fund used by the department of transportation for railway-related programs and activities, including a brief description of each such program and activity receiving such funding;

(5) The portion of the transportation equity trust fund used by the department of transportation for aeronautics-related programs and activities, including a brief description of each such program and activity receiving such funding;
such funding; and

(6) The portion of the transportation equity trust fund used by the department of transportation for waterways-related programs and activities, including a brief description of each such program and activity receiving such funding.

67-6-410. Information report of sales of beer, tobacco products, or other types of tangible personal property.

(a)(1) The commissioner is authorized to require persons selling beer, as defined in § 57-5-101, and persons selling tobacco products, as defined in § 67-4-1001, to retailers of such products to file an information report of such sales with the department. Nothing shall prevent a seller from including in its report sales of tangible personal property that are not otherwise required by this section.

(2) The commissioner is authorized to require each tobacco product manufacturer, as defined in § 47-31-102, whose cigarettes are sold in this state, whether directly or through a distributor, retailer, or similar intermediary or intermediaries, to file an information report related to tobacco buydown payments, as defined in § 67-6-357, received by retailers from the tobacco product manufacturer.

(3) [Expires on July 1, 2022. See (a)(3)(C).]

(A) The commissioner is authorized to require persons selling food, candy, or nonalcoholic beverages, including bottled soft drinks, to retailers of such products to file an information report of such net sales with the department. For purposes of this subdivision (a)(3):

(i) “Bottled soft drinks” has the same meaning as defined in § 67-4-402;

(ii) “Candy” has the same meaning as defined in § 67-6-102;

(iii) “Food” and “nonalcoholic beverages” includes the items described in the definition of “food and food ingredients” in § 67-6-102 except for the following, which shall not be required for purposes of this section: perishable grocery items such as fruits, vegetables, deli meat, deli cheese, deli salads, and other deli products; fresh meats; refrigerated meats; frozen meats; frozen dinners, entrees, and meals; frozen pizza; or other frozen foods; and

(iv) “Net sales” means the aggregate amount for which the reported products were sold during the reporting period, less any discounts, on-invoice adjustments, credit for returned merchandise, or other similar reductions in the amount charged to the retailer for the products covered by the report.

(B) (i) Nothing in this section prevents a seller from including in its report net sales of tangible personal property that are not otherwise required by this section.

(ii) Nothing in this section prevents a seller from reporting on a more detailed basis than required by this section.

(iii) For purposes of this section, sales of candy, food, and nonalcoholic beverages, including bottled soft drinks as defined by § 67-4-402(a)(1), may be reported in the aggregate for each retailer location, in lieu of reporting specific SKU (Stock Keeping Units) identification number totals for each product.
(C) This subdivision (a)(3) is deleted on July 1, 2022.

(b) The information report shall contain such information as deemed reasonably necessary by the commissioner of revenue to ascertain the correctness of any tax return or to determine the liability of any person taxable under this part, and may include, but is not limited to, the following information:
   (1) The seller's name and license number;
   (2) The retailer's name, beer permit number if applicable, and sales and use tax account number;
   (3) The retailer's situs code and address, including street address, county, municipality, state, and zip code;
   (4) The general type of product sold; provided, that all candy, food, and nonalcoholic beverages, including bottled soft drinks, may be treated as a single type of product;
   (5) The dates each type of product was sold; provided, for all candy, food, and nonalcoholic beverage sales, including bottled soft drinks, the date can reflect the last day of the period covered by the report;
   (6) The quantity of each type of product sold;
   (7) The monthly or quarterly sales total, in dollars, of each type of product sold; and
   (8) If applicable, the name of the tobacco product manufacturer providing the tobacco buydown payment, the purchase date to which the tobacco buydown payment corresponds, and the amount of the tobacco buydown payment.

(c) The information report shall be filed electronically in a format specified by the commissioner; provided, however, that electronic submission shall not be required from any wholesaler that does not keep records electronically in the ordinary course of business.

(d) Notwithstanding subsection (b) or (c) to the contrary, no seller shall be required to change its record-keeping system for purposes of this section. If the seller's records do not include all of the information requested by the commissioner, or include the information in a different format than requested by the commissioner, the requirements of this section shall be satisfied if the seller includes in the report all of the requested information that the seller does have, in the format in which the seller ordinarily maintains such information.

(e) The information report shall be filed for each calendar quarter and shall be due no later than the twenty-fifth day of the month immediately following the end of such period; provided, however, that nothing in this section prevents the seller from filing on a monthly basis. Any seller who fails to provide the information report by the due date or who negligently or knowingly includes inaccurate information on the information report is subject to a penalty, not to exceed two hundred fifty dollars ($250), for each inaccurate report, or for every month the report, or part thereof, is not provided, up to a maximum amount of two thousand five hundred dollars ($2,500). The commissioner is authorized to waive the penalty, in whole or in part, for good and reasonable cause under § 67-1-803.

(f) Any person selling beer, as defined in § 57-5-101, who files the report required by this section, which report contains at least the information required by § 57-6-105(b), shall not be required to file with the department the report otherwise required by § 57-6-105(b); provided, however, that nothing in this subsection (f) shall relieve the seller from filing any report, or copy thereof, with any county or municipality.

(g) The commissioner shall not issue any assessment under § 67-1-1438,
including a notice of proposed assessment, to any retailer based solely on the informa-
tion report submitted pursuant to this section unless the department first issues to the retailer an inquiry letter setting forth the information that led the department to its conclusion and providing an opportunity for the retailer to explain the inconsistencies between its purchases and reported sales. Nothing in this section prohibits a jeopardy assessment under § 67-1-1431.

(h) [Expires on July 1, 2022. See (h)(5).]

(1) Any wholesaler making sales of candy, food, and nonalcoholic beverages, including bottled soft drinks, in an amount less than five hundred thousand dollars ($500,000) during the prior calendar year shall not be required to include such sales of candy, food, and nonalcoholic beverage products, including bottled soft drinks, in the information report required under subsection (a).

(2) Any wholesaler making sales of candy, food, or nonalcoholic beverages, including bottled soft drinks, to an affiliate shall not be required to include sales of candy, food, or nonalcoholic beverages, including bottled soft drinks, to any affiliates in the information report required under subsection (a). For purposes of this section, “affiliate” has the same meaning as provided in chapter 4, part 20 of this title.

(3) Any wholesaler making sales of candy, food, or nonalcoholic beverages, including bottled soft drinks, to a retailer under the following circumstances shall not be required to include such sales in the information report required by subsection (a):

(A) The retailer buys at least fifty percent (50%) of its candy, food, and nonalcoholic beverages, including bottled soft drinks, from an affiliate that falls within the exemption provided by subdivision (h)(2) and the retailer notifies the wholesaler in writing that this requirement is met; and

(B) The wholesaler shall retain the retailer’s written notification and provide a copy to the department upon reasonable request.

(4) Any wholesaler making sales of candy, food, or nonalcoholic beverages, including bottled soft drinks, shall be allowed to submit the information required by this section in the format in which the seller ordinarily maintains such information.

(5) This subsection (h) is deleted on July 1, 2022.

(i) Nothing in this section limits the provisions of § 67-6-523.

(j) Any notice of proposed assessment sent to a taxpayer based on the information report submitted pursuant to this section shall clearly state in bold face type the following language:

As a taxpayer of Tennessee, you have a right to dispute any proposed assessment by filing a timely request for an informal conference.

(k) The department shall provide an assessment calculation for each type of product required to be reported under this section. The assessment calculation shall be posted on the website of the department.

(l) Any report provided to the department pursuant to this section shall be tax information of the wholesaler and shall be confidential pursuant to § 67-1-1702; provided, however, that the department is authorized to disclose, to an individual customer of the wholesaler, records of the customer’s purchases contained within the report.
67-6-504. Returns and payment. [Effective until July 1, 2021. See the version effective on July 1, 2021.]

(a) The taxes levied under this chapter shall be due and payable monthly, on the first day of each month, and for the purpose of ascertaining the amount of tax payable under this chapter, it shall be the duty of all dealers on or before the twentieth day of each month to transmit to the commissioner, upon forms prescribed, prepared and furnished by the commissioner, returns, showing the gross sales, or purchases, as the case may be, arising from all sales or purchases taxable under this chapter during the preceding calendar month.

(b) At the time of transmitting the return required in this chapter to the commissioner, the dealer shall remit to the commissioner therewith the amount of tax due under the applicable provisions of this chapter, and failure to so remit such tax shall cause the tax to become delinquent.

(c) Gross proceeds from rentals or leases of tangible personal property shall be reported and the tax shall be paid with respect thereto in accordance with such rules and regulations as the commissioner may prescribe.

(d) Gross proceeds from the furnishing of things or services taxable under this chapter shall be reported and the tax shall be paid with respect thereto in the same manner as gross proceeds from the sale, rental or lease of tangible personal property and in accordance with such rules and regulations as the commissioner may prescribe.

(e) Any dealer who is liable for the tax imposed by this chapter may round off all figures used on the sales and use tax return to the nearest dollar amount.

(f) Notwithstanding any law to the contrary, when a taxpayer is required to remit payments electronically as set forth in § 67-1-703(b), then all returns required by this chapter that are associated with such payments shall be filed electronically using a method approved by the commissioner. When any taxpayer is required to file returns and remit payments electronically for any one (1) outlet, location or other place of business, the commissioner may require the taxpayer to file returns and remit payments electronically for each place of business of the taxpayer. The requirement to file electronically shall continue thereafter until such time as the commissioner advises the taxpayer to file by another method. In extenuating circumstances, the commissioner is authorized to waive the electronic payment and filing requirements under this subsection (f) and under § 67-1-703(b) and permit the taxpayer to file the return in paper form. The commissioner is authorized to require that any such paper filing be accompanied by a manual handling fee, not to exceed twenty-five dollars ($25.00), that is reasonably calculated by the department to account for the additional cost of preparing, printing, receiving, reviewing and processing any paper filing so permitted.

(g) In addition to any other penalty provided by law, the commissioner is authorized to assess any taxpayer required to file returns by electronic means under subsection (f) a penalty, not to exceed five hundred dollars ($500), for each instance of filing a return by any other means. Such penalty shall be subject to waiver under § 67-1-803.

(h) In computing the tax due or to be collected as the result of any transaction, the tax rate shall be the sum of the applicable state and local rate, if any, and the tax computation shall be carried to the third decimal place. Whenever the third decimal place is greater than four, the tax shall be rounded.
to the next whole cent.

(i) A seller may elect to compute the tax due on a transaction on either an item or an invoice basis, and may apply the rounding rule provided for in subsection (h) to the aggregated state and local taxes. A seller shall not be required to collect the tax on a bracket system.

(j)(1) Any dealer making sales subject to the tax imposed by this chapter may choose to collect and remit taxes as a Model 1 or Model 2 seller, subject to this subsection (j). For purposes of this subsection (j), tax includes any associated interest and penalty.

(2)(A) A dealer choosing Model 1 shall contract with a certified service provider and shall permit the certified service provider to determine the tax due, collect the tax, file returns, and remit the tax to the appropriate state on all of its sales, leases, or rentals of tangible personal property or services that are subject to the tax levied by this chapter. A Model 1 seller’s liability to this state for the tax levied by this chapter is limited to the tax due on its own purchases, the tax due on any of its sales, leases, or rentals made outside the system provided by the certified service provider, and the tax due in the event of fraud by the Model 1 seller. The certified service provider shall not have any additional liability for state or local option taxes imposed by this chapter, if:

(i) The Model 1 seller charged and collected an incorrect amount of sales or use tax in reliance on erroneous data made available for review but not discovered during the certification of the certified service provider’s automated system; provided, that the error is corrected within ten (10) days of the date of notification by the commissioner to correct the automated system. The commissioner may allot additional time upon a showing by the certified service provider of the need for additional time to correct the automated system; or

(ii) An item or transaction is incorrectly classified as to its taxability within the certified service provider’s automated system that was certified by this state; provided, that the taxability error is corrected within ten (10) days of the date of the notification by the commissioner to correct the automated system.

(B) Beginning on the first day after the allotted period of time to correct the certified service provider’s automated system, the certified service provider shall be liable for the tax, penalty and interest resulting from the failure to correct the certified service provider’s automated system. This subdivision (j)(2) does not apply to errors in charging and collecting or remitting sales or use tax that are the result of classifying the item or transaction within a defined term or other classification within the certified service provider’s automated system.

(3) A dealer choosing Model 2 shall use a certified automated system to determine the tax due on all of its sales, leases, or rentals of tangible personal property or services that are subject to the tax levied by this chapter. Model 2 sellers shall not have any additional liability for state or local option taxes imposed by this chapter, if the Model 2 seller charged and collected or remitted an incorrect amount of sales or use tax in reliance on the certification of the certified automated system; provided, that the error is corrected within ten (10) days of the date of notification by the commissioner to correct or notification by the provider of the certified automated system of the availability of updates to correct the certified automated
system. Beginning on the eleventh day, the Model 2 seller shall be liable for the tax, penalty, and interest resulting from the failure to correct or update the certified automated system for errors resulting from reliance on the certification.

(k) A certified service provider has, and is subject to, all of the rights, liabilities, duties and responsibilities imposed by this chapter as if it were the Model 1 seller for whom the certified service provider has agreed to perform all sales and use tax functions, except the Model 1 seller’s obligation to remit tax on its own purchases.

(l) The commissioner may enter into contracts with certified service providers for the collection and reporting of the tax imposed under this chapter. The commissioner may enter into the contracts in conjunction with other states.

(m) [Effective October 1, 2019.] When reporting the local sales and use tax levied under part 7 of this chapter, out of state dealers shall provide sufficient information as prescribed by the commissioner to indicate the incorporated municipality or unincorporated area of a county into which the sale is shipped or delivered, even if the local tax rates of the municipality and unincorporated area of the county are the same.

67-6-504. Returns and payment. [Effective on July 1, 2021. See the version effective until July 1, 2021.]

(a) The taxes levied under this chapter shall be due and payable monthly, on the first day of each month, and for the purpose of ascertaining the amount of tax payable under this chapter, it shall be the duty of all dealers on or before the twentieth day of each month to transmit to the commissioner, upon forms prescribed, prepared and furnished by the commissioner, returns, showing the gross sales, or purchases, as the case may be, arising from all sales or purchases taxable under this chapter during the preceding calendar month; provided, that each dealer shall be required to file only one (1) return per month for all of its locations within the state.

(b) At the time of transmitting the return required in this chapter to the commissioner, the dealer shall remit to the commissioner therewith the amount of tax due under the applicable provisions of this chapter, and failure to so remit such tax shall cause the tax to become delinquent.

(c) Gross proceeds from rentals or leases of tangible personal property shall be reported and the tax shall be paid with respect thereto in accordance with such rules and regulations as the commissioner may prescribe.

(d) Gross proceeds from the furnishing of things or services taxable under this chapter shall be reported and the tax shall be paid with respect thereto in the same manner as gross proceeds from the sale, rental or lease of tangible personal property and in accordance with such rules and regulations as the commissioner may prescribe.

(e) [Deleted by 2007 amendment, effective July 1, 2019.]

(f) Notwithstanding any law to the contrary, when a taxpayer is required to remit payments electronically as set forth in § 67-1-703(b), then all returns required by this chapter that are associated with such payments shall be filed electronically using a method approved by the commissioner. When any taxpayer is required to file returns and remit payments electronically for any one (1) outlet, location or other place of business, the commissioner may require the taxpayer to file returns and remit payments electronically for each place of
business of the taxpayer. The requirement to file electronically shall continue thereafter until such time as the commissioner advises the taxpayer to file by another method. In extenuating circumstances, the commissioner is authorized to waive the electronic payment and filing requirements under this subsection (f) and under § 67-1-703(b) and permit the taxpayer to file the return in paper form. The commissioner is authorized to require that any such paper filing be accompanied by a manual handling fee, not to exceed twenty-five dollars ($25.00), that is reasonably calculated by the department to account for the additional cost of preparing, printing, receiving, reviewing and processing any paper filing so permitted.

(g) In addition to any other penalty provided by law, the commissioner is authorized to assess any taxpayer required to file returns by electronic means under subsection (f) a penalty, not to exceed five hundred dollars ($500), for each instance of filing a return by any other means. Such penalty shall be subject to waiver under § 67-1-803.

(h) In computing the tax due or to be collected as the result of any transaction, the tax rate shall be the sum of the applicable state and local rate, if any, and the tax computation shall be carried to the third decimal place. Whenever the third decimal place is greater than four, the tax shall be rounded to the next whole cent.

(i) A seller may elect to compute the tax due on a transaction on either an item or an invoice basis, and may apply the rounding rule provided for in subsection (h) to the aggregated state and local taxes. A seller shall not be required to collect the tax on a bracket system.

(j)(1) Any dealer making sales subject to the tax imposed by this chapter may choose to collect and remit taxes as a Model 1 or Model 2 seller, subject to this subsection (j). For purposes of this subsection (j), tax includes any associated interest and penalty.

(2)(A) A dealer choosing Model 1 shall contract with a certified service provider and shall permit the certified service provider to determine the tax due, collect the tax, file returns, and remit the tax to the appropriate state on all of its sales, leases, or rentals of tangible personal property or services that are subject to the tax levied by this chapter. A Model 1 seller's liability to this state for the tax levied by this chapter is limited to the tax due on its own purchases, the tax due on any of its sales, leases, or rentals made outside the system provided by the certified service provider, and the tax due in the event of fraud by the Model 1 seller. The certified service provider shall not have any additional liability for state or local option taxes imposed by this chapter, if:

(i) The Model 1 seller charged and collected an incorrect amount of sales or use tax in reliance on erroneous data made available for review but not discovered during the certification of the certified service provider's automated system; provided, that the error is corrected within ten (10) days of the date of notification by the commissioner to correct the automated system. The commissioner may allot additional time upon a showing by the certified service provider of the need for additional time to correct the automated system; or

(ii) An item or transaction is incorrectly classified as to its taxability within the certified service provider's automated system that was certified by this state; provided, that the taxability error is corrected within ten (10) days of the date of the notification by the commissioner to correct
the automated system.

(B) Beginning on the first day after the allotted period of time to correct the certified service provider’s automated system, the certified service provider shall be liable for the tax, penalty and interest resulting from the failure to correct the certified service provider’s automated system. This subdivision (j)(2) does not apply to errors in charging and collecting or remitting sales or use tax that are the result of classifying the item or transaction within a defined term or other classification within the certified service provider’s automated system.

(3) A dealer choosing Model 2 shall use a certified automated system to determine the tax due on all of its sales, leases, or rentals of tangible personal property or services that are subject to the tax levied by this chapter. Model 2 sellers shall not have any additional liability for state or local option taxes imposed by this chapter, if the Model 2 seller charged and collected or remitted an incorrect amount of sales or use tax in reliance on the certification of the certified automated system; provided, that the error is corrected within ten (10) days of the date of notification by the commissioner to correct or notification by the provider of the certified automated system of the availability of updates to correct the certified automated system. Beginning on the eleventh day, the Model 2 seller shall be liable for the tax, penalty, and interest resulting from the failure to correct or update the certified automated system for errors resulting from reliance on the certification.

(k) A certified service provider has, and is subject to, all of the rights, liabilities, duties and responsibilities imposed by this chapter as if it were the Model 1 seller for whom the certified service provider has agreed to perform all sales and use tax functions, except the Model 1 seller’s obligation to remit tax on its own purchases.

(l) The commissioner may enter into contracts with certified service providers for the collection and reporting of the tax imposed under this chapter. The commissioner may enter into the contracts in conjunction with other states.

(m) When reporting the local sales and use tax levied under part 7 of this chapter, out of state dealers shall provide sufficient information as prescribed by the commissioner to indicate the incorporated municipality or unincorporated area of a county into which the sale is shipped or delivered, even if the local tax rates of the municipality and unincorporated area of the county are the same.

67-6-528. Common carriers seeking reduced rate — Applications — Certificates. [Effective until July 1, 2021. See the version effective on July 1, 2021.]

(a) Common carriers seeking to make purchases subject to the reduced rate provided in part 2 of this chapter shall apply to the commissioner for a certificate. This application shall be made upon forms provided by the commissioner and shall require information deemed necessary by the commissioner to establish that the applicant is a common carrier making purchases of tangible personal property for use outside this state. The certificate may be revoked by the commissioner at any time, if the commissioner finds that the holder no longer meets the conditions precedent for the reduced rate.

(b) Common carriers making purchases subject to the reduced rate provided in part 2 of this chapter shall keep records of all such purchases, establishing to the satisfaction of the commissioner that items purchased were not used in
Tennessee, but were removed from this state for use and consumption outside this state.

67-6-528. Common carriers seeking reduced rate — Applications — Certificates. [Effective on July 1, 2021. See the version effective until July 1, 2021.]

(a) Common carriers and commercial air carriers seeking to make purchases exempt from tax pursuant to § 67-6-385 or § 67-6-386 shall apply to the commissioner for a certificate. This application shall be made upon forms provided by the commissioner and shall require information deemed necessary by the commissioner to establish that the applicant is a common carrier making purchases of tangible personal property for use outside this state, or is a commercial air carrier that actually uses aviation fuel in the operation of airplanes or aircraft motors. The certificate may be revoked by the commissioner at any time, if the commissioner finds that the holder no longer meets the conditions precedent for the exemption.

(b) Common carriers making purchases exempt from tax pursuant to § 67-6-385 shall keep records of all the purchases establishing to the satisfaction of the commissioner that items purchased were not used in Tennessee but were removed from this state for use and consumption outside this state.

(c) Commercial air carriers making purchases exempt from tax pursuant to § 67-6-386 shall keep records of the purchases establishing to the satisfaction of the commissioner that the fuel was actually used in the operation of airplanes or aircraft motors.

67-6-536. Returns submitted by Model 1 and 2 sellers — Informational return — Electronic payments — Due dates. [Effective until July 1, 2021. See the version effective on July 1, 2021.]

(a) Model 1 or 2 sellers with business locations in this state shall submit their returns in a format required by the commissioner. Model 1 or 2 sellers that do not have business locations in this state may submit their returns in a format adopted by the member states to the Streamlined Sales and Use Tax Agreement; provided, however, that all of the returns shall be filed electronically.

(b) Notwithstanding any law to the contrary, the commissioner is authorized to require Model 1 or 2 sellers that submit returns in a format adopted by the member states to the Streamlined Sales and Use Tax Agreement to submit once a year an informational return as permitted by the member states to the Streamlined Sales and Use Tax Agreement.

(c) Notwithstanding the provisions of § 67-1-703 to the contrary, all remittances from Model 1 or 2 sellers shall be made electronically, using ACH Credit or ACH Debit processes. The commissioner is authorized to provide for an alternative method of making the payment in the event the electronic funds transfer process fails.

(d) Notwithstanding any law to the contrary, a seller that is registered using the central registration system provided by states that are members of the Streamlined Sales and Use Tax Agreement, does not have a legal requirement to register in this state, is not a Model 1 or 2 seller, and has not accumulated more than one thousand dollars ($1,000) in state and local sales and use taxes shall be permitted to file a sales and use tax return at any time within one (1)
year of the month of initial registration and shall be permitted to file future returns on an annual basis in succeeding years. The returns shall be due the twentieth day of the month following the tax period covered by the return. A seller that has accumulated state and local sales and use tax funds in the amount of one thousand dollars ($1,000) shall file a return by the twentieth day of the month following the month in which the accumulated taxes reach or exceed one thousand dollars ($1,000). Nothing in this subsection (d) shall relieve a seller who collects state sales or use tax from its customers from liability for failure to pay over those funds to the commissioner on behalf of the state.

67-6-536. Returns submitted by Model 1 and 2 sellers — Informational return — Electronic payments — Due dates. [Effective on July 1, 2021. See the version effective until July 1, 2021.]

(a) Model 1 or 2 sellers may submit their returns in such format as required by the member states to the Streamlined Sales and Use Tax Agreement; provided, however, that all such returns shall be filed electronically.

(b) Notwithstanding any law to the contrary, the commissioner is authorized to require Model 1 or 2 sellers that submit returns in a format adopted by the member states to the Streamlined Sales and Use Tax Agreement to submit once a year an informational return as permitted by the member states to the Streamlined Sales and Use Tax Agreement.

(c) Notwithstanding the provisions of § 67-1-703 to the contrary, all remittances from Model 1 or 2 sellers shall be made electronically, using ACH Credit or ACH Debit processes. The commissioner is authorized to provide for an alternative method of making the payment in the event the electronic funds transfer process fails.

(d) Notwithstanding any law to the contrary, a seller that is registered using the central registration system provided by states that are members of the Streamlined Sales and Use Tax Agreement, does not have a legal requirement to register in this state, is not a Model 1 or 2 seller, and has not accumulated more than one thousand dollars ($1,000) in state and local sales and use taxes shall be permitted to file a sales and use tax return at any time within one (1) year of the month of initial registration and shall be permitted to file future returns on an annual basis in succeeding years. The returns shall be due the twentieth day of the month following the tax period covered by the return. A seller that has accumulated state and local sales and use tax funds in the amount of one thousand dollars ($1,000) shall file a return by the twentieth day of the month following the month in which the accumulated taxes reach or exceed one thousand dollars ($1,000). Nothing in this subsection (d) shall relieve a seller who collects state sales or use tax from its customers from liability for failure to pay over those funds to the commissioner on behalf of the state.

67-6-539. Bundled transactions — Telecommunications services. [Effective until July 1, 2021. See the version effective on July 1, 2021.]

(a)(1) For purposes of this section, a bundled transaction means the retail sale of two (2) or more services, where:

(A) The services are otherwise distinct and identifiable; and
(B) The services are sold for one (1) nonitemized price.

(2) A bundled transaction does not include the sale of any services in which the sales price varies, or is negotiable, based on the selection by the purchaser of the services included in the transaction.

(b) Notwithstanding any other law to the contrary, in the case of a bundled transaction of telecommunication services, ancillary services, internet access services, or audio or video programming services, or direct-to-home satellite television programming services:

   (1) If the price is attributable to services that are taxable and services that are nontaxable, the portion of the price attributable to the nontaxable services shall be subject to tax, unless the provider can identify, by reasonable and verifiable standards, such portion from its books and records that are kept in the regular course of business for other purposes, including, but not limited to, nontax purposes;

   (2) If the price is attributable to services that are subject to tax at different tax rates, the total price shall be treated as attributable to the services subject to tax at the highest tax rate, unless the provider can identify, by reasonable and verifiable standards, the portion of the price attributable to the products subject to tax at the lower rate from its books and records that are kept in the regular course of business for other purposes, including, but not limited to, nontax purposes;

   (3) If the taxes that would have otherwise been collected on the distinct and identifiable services would have been designated to different funds or purposes, such designation shall be based on the same allocation utilized in subdivision (b)(1) or (b)(2). However, if the total of the bundled transaction was subjected to tax or subjected to tax at the higher combined state and local rate, a reasonable allocation method approved by the commissioner shall be made for designation of the taxes to the different funds or purposes.

   (4) This section shall apply unless otherwise provided by federal law.

67-6-539. Bundled transactions — Telecommunications services. [Effective on July 1, 2021. See the version effective until July 1, 2021.]

(a) For purposes of the tax imposed by this chapter, a bundled transaction is subject to tax at the rate levied on the sale of tangible personal property at retail by § 67-6-202.

(b) Notwithstanding subsection (a) to the contrary, if the price is attributable to products that are taxable and products that are nontaxable, the portion of the price attributable to the nontaxable products shall be subject to tax unless the provider can identify by reasonable and verifiable standards that portion from its books and records that are kept in the regular course of business for other purposes, including, but not limited to, nontax purposes, in the case of a bundled transaction that includes any of the following:

   (1) Telecommunication services;

   (2) Ancillary services;

   (3) Internet access services;

   (4) Audio or video programming services; or

   (5) Direct-to-home satellite television programming services.

(c) This section shall apply unless otherwise provided by federal law.
67-6-601. Certificate of registration — Required — Application. [Effective until July 1, 2021. See the version effective on July 1, 2021.]

(a) Every person desiring to engage in or conduct business as a dealer in this state shall file with the commissioner an application for a “certificate of registration” for each place of business.

(b) Any person who engages in the business of furnishing any of the things or services taxable under this chapter shall likewise apply for and obtain a certificate of registration as provided by this part.

(c) The commissioner may impose additional or different registration and/or reporting requirements as determined to be necessary by the commissioner in order to administer the allocation provisions of §§ 67-6-103 and 67-6-712, regarding sports authorities and public building authorities and industrial development corporations created pursuant to title 7, chapter 53.

67-6-702. Tax authorized — Rates — Termination of services tax. [Effective until July 1, 2021. See the version effective on July 1, 2021.]

(a)(1) Any county, by resolution of its county legislative body, or any incorporated city or town, by ordinance of its governing body, is authorized to levy a tax on the same privileges subject to this chapter as the chapter may be amended, that are exercised within such county, city or town, to be levied and collected in the same manner and on all such privileges, but not to exceed two and three fourths percent (2.75%); provided, that the tax levied shall apply only to the first one thousand six hundred dollars ($1,600) on the sale or use of any single article of personal property.

(2) Any five-dollar or seven-dollar and fifty-cent tax limit on the sale or use of any single article of personal property in effect at present may be removed, and, by resolution in the case of counties and by ordinance in the case of municipalities, the tax at the existing rate may, instead, be made to apply to the bases provided in subdivision (a)(1). The resolution or ordinance...
shall be passed at least twice at two (2) or more consecutive public meetings, not more than one (1) of which may be held on any single day. Notice of the meetings and of the fact that this matter is on the agenda of the meetings shall be published at least once in a newspaper of general circulation throughout the jurisdiction involved not less than seven (7) days before the first of the meetings. If the county or counties in which it is located does not increase the base of the county-wide local sales and use tax pursuant to this subdivision (a)(2), any municipality may by ordinance apply any county tax rate in effect in the municipality to the bases authorized in subdivision (a)(1) for purposes of the sale or use of any single article of personal property within the municipality's corporate limits. The ordinance increasing the base of the county-wide tax within the municipality shall be adopted as required in this subdivision (a)(2).

(3) Once any local sales tax limit has been removed and the tax rate applied to the base provided in subdivision (a)(1), future increases in the base beginning on the dates specified in subdivision (a)(1) shall be automatic and shall not require further action of the local governing body. For any municipality or county which implements a local sales tax for the first time after May 17, 1983, or during the phase-in period provided in subdivision (a)(1), future increases in the base beginning on the dates specified in subdivision (a)(1) shall be automatic and shall not require further action of the local governing body.

(4) For the purpose of this part, persons engaged in the business of selling water shall be considered to be exercising a taxable privilege at the place where the tangible personal property is delivered to the purchaser.

(b) Notwithstanding other provisions of this chapter, with respect to water sold to or used by manufacturers at the state tax rate of one percent (1%) as authorized in § 67-6-206, the local tax thereon shall be imposed at the rate of one third of one percent ($\frac{1}{3}$%) whenever the rate of the local tax does not exceed one percent (1%) and at the rate of one-half of one percent (0.5%) whenever the rate of the local tax exceeds one percent (1%). The maximum local tax on the sale or use of any single article of industrial or farm machinery shall be as provided in subsection (a).

(c) A use tax paid by the lessee of tangible personal property from a lessor which is a tax exempt entity pursuant to an election made under § 67-6-204(b) shall be in lieu of any tax that might otherwise be imposed under this part, and no additional sales or use tax may be imposed under this part on rental payments with respect to which a use tax based on the purchase price of the tangible personal property has been paid by election.

(d) “Single article” means that which is regarded by common understanding as a separate unit exclusive of any accessories, extra parts, etc., and that which is capable of being sold as an independent unit or as a common unit of measure, a regular billing or other obligation. Such independent units sold in sets, lots, suites, etc., at a single price shall not be considered a single article. Parts or accessories for motor vehicles that are installed at the factory and delivered with the unit as original equipment and/or parts or accessories for motor vehicles that are installed by the dealer and/or distributor prior to sale, at the time of the sale, or that are included as part of the sales price of the vehicle shall be treated as a part of the unit. In addition, all necessary parts and equipment installed by a motor vehicle dealer that are essential to the functioning of the motor vehicle or are required to be installed on the motor
vehicle prior to sale to the ultimate consumer pursuant to state or federal statutes relating to the lawful use of the motor vehicle shall be treated as a part of the unit. Boat motors, other parts or accessories for boats, freight, and labor, excluding trailers, shall be treated as part of the boat unit in the same manner as parts or accessories for motor vehicles are treated as part of the motor vehicle unit. Parts and accessories and any other additional or incidental items or services that are part of the sale of a manufactured home shall be treated as part of the manufactured home unit in the same manner as parts and accessories for motor vehicles are treated as part of the motor vehicle unit.

(e) Notwithstanding any other provision of this chapter, with respect to sales of tangible personal property to common carriers for use outside this state subject to the reduced rate provided in part 2 of this chapter, the local tax thereon shall be at the rate of one and one-half percent (1.5%). The maximum local tax on the sale or use of any single article of personal property shall be as provided in subsection (a).

(f) [Effective until October 1, 2019. See version effective on October 1, 2019.] Notwithstanding any other provisions of this part, dealers with no location in this state may choose to pay, in lieu of the tax otherwise authorized by this part, local tax at the rate of two and twenty-five hundredths percent (2.25%) of the sales price on all sales made in this state.

(f) [Effective on October 1, 2019. See version effective until October 1, 2019.] [Deleted by 2019 amendment.]

(g)(1) Notwithstanding any other provisions of this chapter, local tax with respect to interstate or international telecommunications services, that are subject to state tax shall be imposed at the rate of one and one-half percent (1.5%); provided, that interstate and international telecommunications services to businesses are exempt from local tax.

(2) Notwithstanding any other provisions of this chapter, local tax with respect to intrastate telecommunications services and ancillary services that are subject to state tax, shall be imposed at the rate of two and one-half percent (2.5%).

(3) Local tax with respect to “prepaid calling services” and “prepaid wireless calling services” that are subject to tax shall be imposed at the rate of tax levied on the sale of tangible personal property at retail by subsection (a) and at the time of the retail sale of prepaid calling service and prepaid wireless calling service.

(4) Notwithstanding any other provisions of this chapter, local tax with respect to specified digital products that are subject to state tax shall be imposed at the rate of two and one-half percent (2.5%).

(h) Notwithstanding any other law to the contrary, sales of tangible personal property upon which a state sales and use tax is levied shall be subject to a local sales and use tax at the rate of two and one quarter percent (2.25%) when obtained from any vending machine or device.

67-6-702. Tax authorized — Rates — Termination of services tax.

[Effective on July 1, 2021. See the version effective until July 1, 2021.]

(a)(1) Any county by resolution of its county legislative body or any incorporated city or town by ordinance of its governing body is authorized to levy a tax on the same privileges subject to this chapter that are exercised within the
county, city or town, to be levied and collected in the same manner and on all such privileges but not to exceed two and three fourths percent (2.75%); provided, that the tax levied shall apply only to the first one thousand six hundred dollars ($1,600) on the sale or use of any single article of personal property; provided further, that the tax levied on the sale, purchase, use, consumption of electricity, piped natural or artificial gases, or other heating fuels delivered by the seller shall be one-half of one percent (0.5%).

(2) Any five-dollar or seven-dollar and fifty-cent tax limit on the sale or use of any single article of personal property in effect at present may be removed, and, by resolution in the case of counties and by ordinance in the case of municipalities, the tax at the existing rate may, instead, be made to apply to the bases provided in subdivision (a)(1). The resolution or ordinance shall be passed at least twice at two (2) or more consecutive public meetings, not more than one (1) of which may be held on any single day. Notice of the meetings and of the fact that this matter is on the agenda of the meetings shall be published at least once in a newspaper of general circulation throughout the jurisdiction involved not less than seven (7) days before the first of the meetings. If the county or counties in which it is located does not increase the base of the county-wide local sales and use tax pursuant to this subdivision (a)(2), any municipality may by ordinance apply any county tax rate in effect in the municipality to the bases authorized in subdivision (a)(1) for purposes of the sale or use of any single article of personal property within the municipality's corporate limits. The ordinance increasing the base of the county-wide tax within the municipality shall be adopted as required in this subdivision (a)(2).

(3) Once any local sales tax limit has been removed and the tax rate applied to the base provided in subdivision (a)(1), future increases in the base beginning on the dates specified in subdivision (a)(1) shall be automatic and shall not require further action of the local governing body. For any municipality or county that implements a local sales tax for the first time after May 17, 1983, or during the phase-in period provided in subdivision (a)(1), future increases in the base beginning on the dates specified in subdivision (a)(1) shall be automatic and shall not require further action of the local governing body.

(4) For the purpose of this part, persons engaged in the business of selling water shall be considered to be exercising a taxable privilege at the place where the tangible personal property is delivered to the purchaser.

(b) A use tax paid by the lessee of tangible personal property from a lessor that is a tax exempt entity pursuant to an election made under § 67-6-204(c) shall be in lieu of any tax that might otherwise be imposed under this part, and no additional sales or use tax may be imposed under this part on rental payments with respect to which a use tax based on the purchase price of the tangible personal property has been paid by election.

(c) “Single article” means that which is regarded by common understanding as a separate unit exclusive of any accessories, extra parts, etc., and that which is capable of being sold as an independent unit or as a common unit of measure, a regular billing or other obligation; provided, however, and notwithstanding any other law to the contrary, that single article applies only to motor vehicles, aircraft, watercraft, modular homes, manufactured homes, or mobile homes and only those items shall be regarded as single articles. Parts or accessories for motor vehicles that are installed at the factory and delivered with the unit as
original equipment and/or parts or accessories for motor vehicles that are
installed by the dealer or distributor, or both, prior to sale, at the time of the
sale, or that are included as a part of the sales price of the vehicle shall be
treated as a part of the unit. In addition, all necessary parts and equipment
installed by a motor vehicle dealer that are essential to the functioning of the
motor vehicle or are required to be installed on the motor vehicle prior to sale to
the ultimate consumer pursuant to state or federal statutes relating to the
lawful use of the motor vehicle shall be treated as a part of the unit. Boat
motors, other parts or accessories for boats, freight, and labor, excluding
trailers, shall be treated as part of the boat unit in the same manner as parts or
accessories for motor vehicles are treated as part of the motor vehicle unit. Parts
and accessories and any other additional or incidental items or services that are
part of the sale of a manufactured home unit shall be treated as part of the
manufactured home unit in the same manner as parts and accessories for motor
vehicles are treated as part of the motor vehicle unit. Such independent units
sold in sets, lots, suites, etc., at a single price shall not be considered a single
article.

d) Notwithstanding any other law to the contrary, sales of tangible personal
property upon which a state sales and use tax is levied shall be subject to a local
sales and use tax at the rate of two and one quarter percent (2.25%) when
obtained from any vending machine or device.

67-6-704. Exemptions. [Effective until July 1, 2021.]

No county or incorporated city or town is authorized to levy any tax on the
sale, purchase, use, consumption or distribution of electric power or energy, or
of natural or artificial gas, or coal and fuel oil or steam and chilled water
produced and distributed by an energy resource recovery facility operated in a
county with a metropolitan form of government.

67-6-706. Referendum. [Effective until July 1, 2021. See the version
effective on July 1, 2021.]

(a)(1) Any ordinance or resolution of a county or of a city or town levying the
tax under authority of this part shall not become operative until approved in
an election herein provided in the county or the city or town, as the case may
be.

(2) The county election commission shall hold an election on the question
pursuant to § 2-3-204, providing options to vote “FOR” or “AGAINST” the
ordinance or resolution, after the receipt of a certified copy of such ordinance
or resolution, and a majority vote of those voting in the election shall
determine whether the ordinance or resolution is to be operative.

(3) If the majority vote is for the ordinance or resolution, it shall be
deemed to be operative on the date that the county election commission
makes its official canvass of the election returns; provided, however, that no
tax shall be collected under any such ordinance or resolution until the first
day of a month occurring at least thirty (30) days after the operative date.

(b)(1) If a county legislative body adopts a resolution to levy the tax at the
same rate that is operative in a city or town in the county, the election under
this section to determine whether the county tax is to be operative shall be
open only to the voters residing outside of such city or town. If the county tax
is at a higher rate than the rate of the city or town tax, the election shall also
be open to the voters of the city or town.

(2)(A) Except as provided in subdivision (b)(2)(B), should any county or city or town hold an election under this section, and the ordinance or resolution is rejected, no other election thereon shall be held by such county, city or town for a period of six (6) months from the date of the holding of such prior election.

(B) In counties having a population of not more than seven hundred fifty thousand (750,000) nor less than seven hundred thousand (700,000) and not more than two hundred seventy-eight thousand (278,000) and not less than two hundred fifty thousand (250,000), according to the federal census of 1970 or any subsequent federal census, in case of rejection, the limitation period on subsequent elections shall be one (1) year from the date of the holding of such prior election.

67-6-706. Referendum. [Effective on July 1, 2021. See the version effective until July 1, 2021.]

(a)(1) Any ordinance or resolution of a county or of a city or town levying the tax under authority of this part shall not become operative until approved in an election herein provided in the county or the city or town, as the case may be.

(2) The county election commission shall hold an election on the question pursuant to § 2-3-204, providing options to vote “FOR” or “AGAINST” the ordinance or resolution, after the receipt of a certified copy of such ordinance or resolution, and a majority vote of those voting in the election shall determine whether the ordinance or resolution is to be operative.

(3) If the majority vote is for the ordinance or resolution, it shall be deemed to be operative on the date that the county election commission makes its official canvass of the election returns; provided, that no tax shall be collected under the ordinance or resolution until the earliest effective date allowed under this part.

(b)(1) If a county legislative body adopts a resolution to levy the tax at the same rate that is operative in a city or town in the county, the election under this section to determine whether the county tax is to be operative shall be open only to the voters residing outside of such city or town. If the county tax is at a higher rate than the rate of the city or town tax, the election shall also be open to the voters of the city or town.

(2)(A) Except as provided in subdivision (b)(2)(B), should any county or city or town hold an election under this section, and the ordinance or resolution is rejected, no other election thereon shall be held by such county, city or town for a period of six (6) months from the date of the holding of such prior election.

(B) In counties having a population of not more than seven hundred fifty thousand (750,000) nor less than seven hundred thousand (700,000) and not more than two hundred seventy-eight thousand (278,000) and not less than two hundred fifty thousand (250,000), according to the federal census of 1970 or any subsequent federal census, in case of rejection, the limitation period on subsequent elections shall be one (1) year from the date of the holding of such prior election.
67-6-710. Collection and administration. [Effective until July 1, 2021. See the version effective on July 1, 2021.]

(a)(1) In collecting and administering the tax levied under the authority of this part, the commissioner of revenue shall have the same powers as the commissioner has in collecting and administering the state sales tax.

(2) Rules and regulations promulgated by the commissioner under §§ 67-1-102 and 67-6-402 shall be applicable to the tax levied under the authority of this part, and shall be binding on cities, counties, and towns, and interest and penalty for delinquencies shall be imposed equal to the rates provided in § 67-6-516.

(b)(1) The department of revenue shall collect such tax concurrently with the collection of the state tax in the same manner as the state tax is collected; provided, that the department has determined that such collection of the tax is feasible, and has promulgated rules and regulations governing such collection.

(2) The department shall remit the proceeds of the tax to the county, city or town levying the tax, less a reasonable amount of percentage as determined by the department to cover the expenses of administration and collection. This percentage shall be one and one hundred twenty-five thousandths percent (1.125%). The percentage shall not be less than necessary to defray the state’s expenses in administering, collecting, and remitting the local sales tax, as determined annually by the department and certified by the comptroller of the treasury.

(c) The county, city or town shall furnish a certified copy of the adopting resolution or ordinance to the department of revenue in accordance with regulations prescribed by the department.

(d)(1) Upon any claim of illegal assessment or collection, the taxpayer shall have the remedy provided in chapter 1, part 18 of this title, it being the intention of the general assembly that law which applies to the recovery of state taxes illegally assessed or collected be conformed to apply to the recovery of taxes illegally assessed or collected under the authority of this part.

(2) The resolution or ordinance levying the tax shall designate the county or municipal officer against whom suit may be brought for recovery.

(e) [Effective until October 1, 2019. See subsection effective on October 1, 2019.]

(1) Proceeds of the tax provided for in § 67-6-702(f), shall be distributed to the counties based on the ratio of local tax collections in the county under this section over total tax collections in all counties under this section.

(2) The amount received by the county under subdivision (e)(1) shall be distributed first as provided for in § 67-6-712(a)(1). The remainder shall be distributed to the cities or towns in the county based on the ratio of total collections in the municipality to total collections in the county.

(3) A county and a municipality may, by contract, provide for an alternative distribution for the amount not distributed under § 67-6-712(a)(1).

(e) [Effective on October 1, 2019. See subsection effective until October 1, 2019.] [Deleted by 2019 amendment.]

(f) Proceeds of the taxes provided for in § 67-6-702(g) shall be distributed as follows:

(1) Fifty percent (50%) shall be distributed as provided in subsection (e);
and

(2) Fifty percent (50%) shall be distributed to incorporated municipalities in the proportion that the population of each bears to the aggregate population of the state and to counties in the proportion the population of unincorporated areas of the county bears to the aggregate population of the state, according to the most recent federal census and other censuses authorized by law. Counties and incorporated municipalities shall use such funds in the same manner and for the same purposes as funds distributed pursuant to § 67-6-712.

(g)(1) Proceeds of the tax on sales of tangible personal property obtained from any vending machine or device as provided for in § 67-6-702 shall be distributed to the counties based on the ratio of local tax collections in the county under this section over total tax collections in all counties under this section.

(2) The amount received by the county under subdivision (g)(1) shall be distributed first as provided for in § 67-6-712(a)(1). The remainder shall be distributed to the cities or towns in the county based on the ratio of total collections in the municipality to total collections in the county.

(h)(1) Notwithstanding any provision of law to the contrary, the commissioner, based upon reporting of exempt sales under § 67-6-393 and any other data or information the commissioner deems relevant, shall substantially reimburse counties and municipalities for the loss of local tax under this part resulting from the exemption provided by § 67-6-393. The amount of the reimbursement shall be approximately equal to the aggregate amount of local tax that would have been collected under this part on the sale or use of goods otherwise taxable but for § 67-6-393.

(2) If the loss of local tax subject to reimbursement under this subsection (h) cannot be identified to a particular situs, the amount of the reimbursement shall be distributed to the counties based on the ratio of total local tax collections in the county under this part over the total local tax collections in all counties under this part. The amount received by the county under this subdivision (h)(2) shall be distributed first as provided for in § 67-6-712(a)(1). The remainder shall be distributed to each municipality in the county based on the ratio of total collections in that municipality to total collections in the county and shall be distributed to the county based on the ratio of total collections in the unincorporated portions of the county over the total collections in the county.

(3) Notwithstanding any provision of § 67-6-103 to the contrary, the distribution required by this subsection (h) shall be made from state sales tax collections prior to distribution under § 67-6-103; provided, however, that no portion of the revenue derived from the increase in the rate of sales and use tax from six percent (6%) to seven percent (7%) contained in chapter 856, § 4 of the Public Acts of 2002 shall be distributed pursuant to this subsection (h). All such revenue shall continue to be allocated as provided in chapter 856 of the Acts of 2002.

67-6-710. Collection and administration. [Effective on July 1, 2021. See the version effective until July 1, 2021.]

(a)(1) In collecting and administering the tax levied under the authority of this part, the commissioner of revenue shall have the same powers as the
commissioner has in collecting and administering the state sales tax.

(2) Rules and regulations promulgated by the commissioner under §§ 67-1-102 and 67-6-402 shall be applicable to the tax levied under the authority of this part, and shall be binding on cities, counties, and towns, and interest and penalty for delinquencies shall be imposed equal to the rates provided in § 67-6-516.

(b)(1) The department of revenue shall collect such tax concurrently with the collection of the state tax in the same manner as the state tax is collected; provided, that the department has determined that such collection of the tax is feasible, and has promulgated rules and regulations governing such collection.

(2) The department shall remit the proceeds of the tax to the county, city or town levying the tax, less a reasonable amount of percentage as determined by the department to cover the expenses of administration and collection. This percentage shall be one and one hundred twenty-five thousandths percent (1.125%). The percentage shall not be less than necessary to defray the state's expenses in administering, collecting, and remitting the local sales tax, as determined annually by the department and certified by the comptroller of the treasury.

(c) The county, city or town shall furnish a certified copy of the adopting resolution or ordinance to the department of revenue in accordance with regulations prescribed by the department.

(d)(1) Upon any claim of illegal assessment or collection, the taxpayer shall have the remedy provided in chapter 1, part 18 of this title, it being the intention of the general assembly that law which applies to the recovery of state taxes illegally assessed or collected be conformed to apply to the recovery of taxes illegally assessed or collected under the authority of this part.

(2) The resolution or ordinance levying the tax shall designate the county or municipal officer against whom suit may be brought for recovery.

(e) [Deleted by 2007 amendment, effective July 1, 2021.]

(f) [Deleted by 2007 amendment, effective July 1, 2021.]

(g)(1) Proceeds of the tax on sales of tangible personal property obtained from any vending machine or device as provided for in § 67-6-702 shall be distributed to the counties based on the ratio of local tax collections in the county under this section over total tax collections in all counties under this section.

(2) The amount received by the county under subdivision (g)(1) shall be distributed first as provided for in § 67-6-712(a)(1). The remainder shall be distributed to the cities or towns in the county based on the ratio of total collections in the municipality to total collections in the county.

(h)(1) Notwithstanding any provision of law to the contrary, the commissioner, based upon reporting of exempt sales under § 67-6-393 and any other data or information the commissioner deems relevant, shall substantially reimburse counties and municipalities for the loss of local tax under this part resulting from the exemption provided by § 67-6-393. The amount of the reimbursement shall be approximately equal to the aggregate amount of local tax that would have been collected under this part on the sale or use of goods otherwise taxable but for § 67-6-393.

(2) If the loss of local tax subject to reimbursement under this subsection (h) cannot be identified to a particular situs, the amount of the reimbursement shall be distributed to the counties based on the ratio of total local tax
collections in the county under this part over the total local tax collections in all counties under this part. The amount received by the county under this subdivision (h)(2) shall be distributed first as provided for in § 67-6-712(a)(1). The remainder shall be distributed to each municipality in the county based on the ratio of total collections in that municipality over the total collections in the county and shall be distributed to the county based on the ratio of total collections in the unincorporated portions of the county over the total collections in the county.

(3) Notwithstanding any provision of § 67-6-103 to the contrary, the distribution required by this subsection (h) shall be made from state sales tax collections prior to distribution under § 67-6-103; provided, however, that no portion of the revenue derived from the increase in the rate of sales and use tax from six percent (6%) to seven percent (7%) contained in chapter 856, § 4 of the Public Acts of 2002 shall be distributed pursuant to this subsection (h). All such revenue shall continue to be allocated as provided in chapter 856 of the Acts of 2002.

67-6-712. Distribution of revenue. [Effective until July 1, 2021. See the version effective on July 1, 2021.]

(a) [Effective until October 1, 2019. See subsection effective on October 1, 2019.] The tax levied by a county under this part shall be distributed as follows:

(1) One-half (½) of the proceeds shall be expended and distributed in the same manner as the county property tax for school purposes is expended and distributed; and
(2) The other one-half (½) as follows:
   (A) Collections for privileges exercised in unincorporated areas, to such fund or funds of the county as the governing body of the county shall direct;
   (B) Collections for privileges exercised in incorporated cities and towns, to the city or town in which the privilege is exercised;
   (C) However, a county and city or town may by contract provide for other distribution of the one-half (½) not allocated to school purposes.

(3) Any county, city, town, incorporated area or special school district entitled to receive the proceeds described in subdivisions (a)(1) and (2) has the power and authority, by resolution of the governing body thereof, to pledge such proceeds to the punctual payment of principal of and interest on bonds, notes or other evidence of indebtedness issued for the purpose for which such proceeds are permitted to be spent pursuant to such subdivisions (a)(1) and (2); provided, that the pledge by a county of proceeds to which it is entitled under subdivision (a)(1) shall not be effective, unless approved by resolution of the county board of education.

(a) [Effective on October 1, 2019. See subsection effective until October 1, 2019.] The tax levied by a county under this part shall be distributed as follows:

(1) One-half (½) of the proceeds shall be expended and distributed in the same manner as the county property tax for school purposes is expended and distributed; and
(2) The other one-half (½) as follows:
   (A) Collections for privileges exercised in unincorporated areas, to such fund or funds of the county as the governing body of the county shall
direct;

(B) Collections for privileges exercised in incorporated cities and towns, to the city or town in which the privilege is exercised;

(C) However, a county and city or town may by contract provide for other distribution of the one-half (½) not allocated to school purposes.

(3) Any out-of-state dealer making sales to a customer within this state shall report to the department information as prescribed by the commissioner, and as required under § 67-6-504(m), that is sufficient for the commissioner to appropriately distribute revenue pursuant to subdivisions (a)(1) and (a)(2).

(4) Any county, city, town, incorporated area or special school district entitled to receive the proceeds described in subdivisions (a)(1) and (2) has the power and authority, by resolution of the governing body thereof, to pledge such proceeds to the punctual payment of principal of and interest on bonds, notes or other evidence of indebtedness issued for the purpose for which such proceeds are permitted to be spent pursuant to such subdivisions (a)(1) and (2); provided, that the pledge by a county of proceeds to which it is entitled under subdivision (a)(1) shall not be effective, unless approved by resolution of the county board of education.

(b)(1) County trustees in counties having populations of seven hundred thousand (700,000) or more, according to the 1980 federal census or any subsequent federal census, shall not be entitled to receive compensation for receiving and distributing the taxes under subsection (a), notwithstanding § 8-11-110 or any other law to the contrary.

(2) This subsection (b) shall have no effect, unless it is approved by a two-thirds (\(\frac{2}{3}\)) vote of the legislative body of any county to which it may apply. Its approval or nonapproval shall be proclaimed by the presiding officer of the legislative body and certified by such presiding officer to the secretary of state.

(c)(1)(A) Notwithstanding the allocations provided for in subsection (a), if there exists in a municipality a sports authority organized pursuant to title 7, chapter 67, and if that sports authority has secured a major league professional baseball (American or National League), football (National Football League or Canadian Football League, or its successors or assigns), basketball (National Basketball Association), soccer (Major League Soccer), or major or minor league professional hockey (National Hockey League or Central Hockey League or East Coast Hockey League) franchise for that municipality, and only if the municipality or any board or instrumentality of the municipality reimburses the state for any costs to reallocate apportionments of the tax revenue under this section, then an amount shall be apportioned and distributed to the municipality equal to the amount of local tax revenue derived from the sale of admissions to the events of the major or minor league professional sports franchise and also the sale of food and drink sold on the premises of the sports facility in conjunction with those games, parking charges, and related services, as well as the sale by the major or minor league professional sports franchise within the county in which the games take place of authorized franchise goods and products associated with the franchise's operations as a professional sports franchise. The amount distributed to the municipality shall be for the exclusive use of the sports authority, or comparable municipal agency formally designated by the municipality, in accordance
with title 7, chapter 67.

(B) In addition, if an indoor sports facility owned by a sports authority organized pursuant to title 7, chapter 67, in which a professional sports franchise is a tenant, exists in a county with a metropolitan form of government, then an amount shall be apportioned and distributed to the municipality equal to two-thirds ($\frac{2}{3}$) of the amount of the allocation of local tax revenue under subdivision (a)(2) derived from the sale of admissions to all other events occurring at such indoor sports facility and from all other sales of food and drink and other authorized goods or products sold on the premises of the indoor sports facility, parking charges, and related services. Such amounts distributed to the municipality shall be for the exclusive use of the sports authority, or comparable municipal agency formally designated by the municipality, in accordance with title 7, chapter 67. Such amounts shall be used exclusively for the payment of, or the reimbursement of expenses associated with securing current, expanded, or new events for indoor sports facilities owned by a municipal agency formally designated by the municipality, in accordance with title 7, chapter 67.

(C) For the purpose of this subsection (c), “municipality” means any incorporated city or county located in this state.

(2) Any bonds issued relative to the construction of a sports facility shall not be issued for a term longer than thirty (30) years from the date the first game is played by the professional sports franchise in a municipality, as defined in subdivision (c)(1).

(d) Notwithstanding the provisions of this section to the contrary, revenue derived from taxes imposed by this part shall be earmarked and allocated in accordance with title 7, chapter 88.

(e) [Effective on October 1, 2019.] If any dealer fails to provide the department with the information required under § 67-6-504(m) and the department is unable to determine the proper distribution of local sales tax under subsection (a), the department shall distribute the local sales tax as follows:

(1) For taxes received by the department before July 1, 2021:
   (A) The tax shall be distributed to the counties based on the ratio of local tax collections in the county under this section over total local tax collections in all counties under this section;
   (B) The amount received by the county under subdivision (e)(1)(A) shall be distributed first as provided for in subdivision (a)(1). The remainder shall be distributed to each incorporated municipality in the county based on the ratio of local tax collections in the municipality to total local tax collections in the county and shall be distributed to the county based on the ratio of local tax collections in the unincorporated portions of the county to total local tax collections in the county;

(2) For taxes received by the department on or after July 1, 2021:
   (A) The tax shall be distributed to the counties based on the ratio of local tax collections in the county from dealers with no location in this state that can be identified by situs over the total local tax collections in all counties from dealers with no location in this state that can be identified by situs;
   (B) The amount received by the county under subdivision (e)(2)(A) shall be distributed first as provided for in subdivision (a)(1). The remainder
shall be distributed to each incorporated municipality in the county based on the ratio of local tax collections in the municipality from dealers with no location in this state that can be identified by situs over the total local tax collections in the county from dealers with no location in this state that can be identified by situs and shall be distributed to the county based on the ratio of local tax collections in the unincorporated portions of the county from dealers with no location in this state that can be identified by situs over the total local tax collections in the county from dealers with no location in this state that can be identified by situs;

(3) A county and a municipality may, by contract, provide for an alternative distribution for the amount not distributed under subdivision (a)(1).

67-6-712. Distribution of revenue. [Effective on July 1, 2021. See the version effective until July 1, 2021.]

(a) The tax levied by a county under this part shall be distributed as follows:

(1) One-half (½) of the proceeds shall be expended and distributed in the same manner as the county property tax for school purposes is expended and distributed; and

(2) The other one-half (½) as follows:

(A) Collections for privileges exercised in unincorporated areas, to such fund or funds of the county as the governing body of the county shall direct;

(B) Collections for privileges exercised in incorporated cities and towns, to the city or town in which the privilege is exercised;

(C) However, a county and city or town may by contract provide for other distribution of the one-half (½) not allocated to school purposes.

(3) Any out-of-state dealer making sales to a customer within this state shall report to the department information as prescribed by the commissioner, and as required under § 67-6-504(m), that is sufficient for the commissioner to appropriately distribute revenue pursuant to subdivisions (a)(1) and (a)(2).

(4) Any county, city, town, incorporated area or special school district entitled to receive the proceeds described in subdivisions (a)(1) and (2) has the power and authority, by resolution of the governing body thereof, to pledge such proceeds to the punctual payment of principal of and interest on bonds, notes or other evidence of indebtedness issued for the purpose for which such proceeds are permitted to be spent pursuant to such subdivisions (a)(1) and (2); provided, that the pledge by a county of proceeds to which it is entitled under subdivision (a)(1) shall not be effective, unless approved by resolution of the county board of education.

(b)(1) County trustees in counties having populations of seven hundred thousand (700,000) or more, according to the 1980 federal census or any subsequent federal census, shall not be entitled to receive compensation for receiving and distributing the taxes under subsection (a), notwithstanding § 8-11-110 or any other law to the contrary.

(2) This subsection (b) shall have no effect, unless it is approved by a two-thirds (2⁄3) vote of the legislative body of any county to which it may apply. Its approval or nonapproval shall be proclaimed by the presiding officer of the legislative body and certified by such presiding officer to the secretary of state.

(c)(1)(A) Notwithstanding the allocations provided for in subsection (a), if there exists in a municipality a sports authority organized pursuant to title 7, chapter 67, and if that sports authority has secured a major league
professional baseball (American or National League), football (National Football League or Canadian Football League, or its successors or assigns), basketball (National Basketball Association), soccer (Major League Soccer), or major or minor league professional hockey (National Hockey League or Central Hockey League or East Coast Hockey League) franchise for that municipality, and only if the municipality or any board or instrumentality of the municipality reimburses the state for any costs to reallocate apportionments of the tax revenue under this section, then an amount shall be apportioned and distributed to the municipality equal to the amount of local tax revenue derived from the sale of admissions to the events of the major or minor league professional sports franchise and also the sale of food and drink sold on the premises of the sports facility in conjunction with those games, parking charges, and related services, as well as the sale by the major or minor league professional sports franchise within the county in which the games take place of authorized franchise goods and products associated with the franchise’s operations as a professional sports franchise. The amount distributed to the municipality shall be for the exclusive use of the sports authority, or comparable municipal agency formally designated by the municipality, in accordance with title 7, chapter 67.

(B) In addition, if an indoor sports facility owned by a sports authority organized pursuant to title 7, chapter 67, in which a professional sports franchise is a tenant, exists in a county with a metropolitan form of government, then an amount shall be apportioned and distributed to the municipality equal to two-thirds (\(\frac{2}{3}\)) of the amount of the allocation of local tax revenue under subdivision (a)(2) derived from the sale of admissions to all other events occurring at such indoor sports facility and from all other sales of food and drink and other authorized goods or products sold on the premises of the indoor sports facility, parking charges, and related services. Such amounts distributed to the municipality shall be for the exclusive use of the sports authority, or comparable municipal agency formally designated by the municipality, in accordance with title 7, chapter 67.

(C) For the purpose of this subsection (c), “municipality” means any incorporated city or county located in this state.

(2) Any bonds issued relative to the construction of a sports facility shall not be issued for a term longer than thirty (30) years from the date the first game is played by the professional sports franchise in a municipality, as defined in subdivision (c)(1).

(d) Notwithstanding the provisions of this section to the contrary, revenue derived from taxes imposed by this part shall be earmarked and allocated in accordance with title 7, chapter 88.

(e) [Effective on October 1, 2019.] If any dealer fails to provide the department with the information required under § 67-6-504(m) and the department is unable to determine the proper distribution of local sales tax under subsection (a), the department shall distribute the local sales tax as follows:

(1) For taxes received by the department before July 1, 2021:

(A) The tax shall be distributed to the counties based on the ratio of local tax collections in the county under this section over total local tax
collections in all counties under this section;

(B) The amount received by the county under subdivision (e)(1)(A) shall be distributed first as provided for in subdivision (a)(1). The remainder shall be distributed to each incorporated municipality in the county based on the ratio of local tax collections in the municipality to total local tax collections in the county and shall be distributed to the county based on the ratio of local tax collections in the unincorporated portions of the county to total local tax collections in the county;

(2) For taxes received by the department on or after July 1, 2021:

(A) The tax shall be distributed to the counties based on the ratio of local tax collections in the county from dealers with no location in this state that can be identified by situs over the total local tax collections in all counties from dealers with no location in this state that can be identified by situs;

(B) The amount received by the county under subdivision (e)(2)(A) shall be distributed first as provided for in subdivision (a)(1). The remainder shall be distributed to each incorporated municipality in the county based on the ratio of local tax collections in dealers with no location in this state that can be identified by situs over the total local tax collections in all counties from dealers with no location in this state that can be identified by situs and shall be distributed to the county based on the ratio of local tax collections in the unincorporated portions of the county from dealers with no location in this state that can be identified by situs over the total local tax collections in the county from dealers with no location in this state that can be identified by situs;

(3) A county and a municipality may, by contract, provide for an alternative distribution for the amount not distributed under subdivision (a)(1).

(f) When local sales tax received by the department from a dealer with no location in this state cannot be identified to a particular situs, the revenues shall be distributed to the counties based on the ratio of local tax collections in the county from dealers with no location in this state that can be identified by situs over the total local tax collections in all counties from dealers with no location in this state that can be identified by situs. The amount received by the county under this subsection shall be distributed first as provided for in subdivision (a)(1). The remainder shall be distributed to each municipality in the county based on the ratio of local tax collections in the municipality from dealers with no location in this state that can be identified by situs over the total local tax collections in the county from dealers with no location in this state that can be identified by situs and shall be distributed to the county based on the ratio of local tax collections in the unincorporated portions of the county from dealers with no location in this state that can be identified by situs over the total local tax collections in the county from dealers with no location in this state that can be identified by situs.

67-6-714. Local option tax exemption for cable or wireless cable television services. [Effective until July 1, 2021.]

There is exempt from the local option tax fees for subscription to, access to or use of television programming or television services provided by a video programming services provider offered for public consumption up to but not exceeding twenty-seven dollars and fifty cents ($27.50) per month.
67-6-715. Refund of local tax on purchase of single article. [Effective on July 1, 2021.]

(a) The commissioner shall refund the portion of the local tax imposed by this chapter that is attributable to the amendment of the single article provision of the Local Option Revenue Act, compiled in this part, for any taxpayers that pay business tax under chapter 4, part 7 of this title; franchise and excise tax under chapter 4, parts 20 and 21 of this title; or sales and use tax under this chapter.

(b) The refund provided for by this section shall be limited to the difference in tax paid by the person entitled to such refund and the tax that would have been paid on the first three thousand two hundred dollars ($3,200) of the sale price of a single article as defined in § 67-6-702 on tangible personal property other than motor vehicles, aircraft, watercraft, modular homes, manufactured homes, or mobile homes prior to July 1, 2009. The refund shall only be allowed on tangible personal property purchased by the taxpayer for use in the business for which the taxpayer is registered under subsection (a).

(c) A person entitled to a refund pursuant to this section shall make a single yearly claim for refund to the commissioner, covering a period of twelve (12) consecutive calendar months, the period to be specified by the commissioner. The commissioner is authorized to make refunds pursuant to this section, provided a claim is filed with the commissioner, under oath and supported by proper proof, within six (6) months after the end of the twelve-month period covered by the claim. Section 67-1-1802 does not apply to refunds made pursuant to this section.

(d)(1) In lieu of filing a claim for refund a dealer registered for sales and use tax may take a credit on its sales and use tax return for the tax that would be refundable under subsection (b). Any dealer that takes this credit on its sales and use tax return must file on an annual basis an information report with the commissioner. This information report shall be in a format approved by the commissioner and shall contain sufficient information for the commissioner's delegates to verify the validity of a credit taken under this section. This information report shall include:

(A) Information showing that the item would have qualified as a single article under § 67-6-702 prior to July 1, 2009;
(B) The amount of the Tennessee sales tax remitted on the single article;
(C) The local jurisdiction to which the tax was paid;
(D) If applicable, information regarding the vendor to whom the tax was paid; and
(E) Such other information as necessary to determine the validity of the credit taken.

(2) This information report shall be filed within sixty (60) days of the close of each calendar year in which a credit was taken on any sales and use tax return.

67-6-716. Notice of change in local tax rate — Effective date of change — Local jurisdiction boundary changes. [Effective on July 1, 2021.]

Notwithstanding any other provision in this part:

(1) A local tax imposed under this part or change in a local tax rate shall become effective only on the first day of a calendar quarter and no sooner than sixty-one (61) days after the commissioner has issued general notification of
the new tax or change in the rate to dealers affected; provided, however, that
the failure of a dealer to receive notice does not relieve it of the obligation to
collect, remit or pay the tax imposed under this part; provided further, that
the failure of a purchaser to receive notice does not relieve the purchaser of
any use tax obligation;

(2) Notwithstanding subdivision (1), with respect to purchases from
printed catalogs where the purchaser computes the tax based on local rates
published in the catalog, a local tax imposed under this part or change in a
local tax rate shall become effective only on the first day of a calendar quarter
and no sooner than one hundred twenty-one (121) days after the commis-
sioner has issued general notification of the new tax or change in the rate to
dealers affected; provided, however, that the failure of a dealer to receive
notice does not relieve it of the obligation to collect, remit or pay the tax
imposed under this part; provided further, that the failure of a purchaser to
receive notice does not relieve the purchaser of any use tax obligation; and

(3) For sales and use tax purposes only, local jurisdiction boundary
changes shall become effective only on the first day of a calendar quarter and
no sooner than sixty-one (61) days after the commissioner has issued general
notification of the new tax or change in the rate to dealers affected; provided,
however, that the failure of a dealer to receive notice does not relieve it of the
obligation to collect, remit or pay the tax imposed under this part; provided
further, that the failure of a purchaser to receive notice does not relieve the
purchaser of any use tax obligation.

67-6-901. Application. [Effective on July 1, 2021.]

(a) Notwithstanding any other law to the contrary, this part shall apply in
determining whether a transaction is subject to the tax levied under this
chapter, and if so, in determining the applicable local tax levied under part 7 of
this chapter. This part applies regardless of the characterization of a product as
tangible personal property, a digital product, or a service, and applies only to
determine a seller’s obligation to pay or collect and remit a sales or use tax with
respect to the seller’s retail sale of a product. This part does not affect the
obligation of a purchaser or lessee to remit tax on the use of the product to the
taxing jurisdictions of that use.

(b) Nothing in this part is intended to impose tax on a transaction if a state
tax on the transaction is prohibited by the United States constitution or the
constitution of this state.

(c) The general provisions of §§ 67-6-902 — 67-6-905 do not apply to sales or
use taxes levied on the following, except as specifically provided for in this
subsection (c); instead the special provisions of § 67-6-906 shall apply to:

(1) The retail sale or transfer of watercraft, manufactured homes, or
mobile homes;

(2) The retail sale, excluding lease or rental, of motor vehicles, trailers,
semi-trailers, or aircraft that do not qualify as transportation equipment, as
defined in § 67-6-902(d). The retail sale of these items shall be sourced
according to existing law as of July 1, 2009, and the lease or rental of these
items shall be sourced according to § 67-6-902(d); and

(3) Telecommunications services and ancillary services, as set out in
§ 67-6-905, shall be sourced in accordance with that section.
67-6-902. Sourcing — Retail sales — Lease or rental of tangible personal property — Lease or sale of nontransportation equipment vehicles — Retail sales of transportation equipment. [Amended effective October 1, 2019. See the Compiler’s Notes.] [Effective on July 1, 2021.]

(a) The retail sale, excluding lease or rental, of a product shall be sourced as follows:

1. When the product is received by the purchaser at a business location of the seller, the sale is sourced to that business location;
2. When the product is not received by the purchaser at a business location of the seller, the sale is sourced to the location where receipt by the purchaser, or the purchaser’s donee, designated as such by the purchaser, occurs, including the location indicated by instructions for delivery to the purchaser, or donee, known to the seller;
3. When subdivisions (a)(1) and (2) do not apply, the sale is sourced to the location indicated by an address for the purchaser that is available from the business records of the seller that are maintained in the ordinary course of the seller’s business when use of this address does not constitute bad faith;
4. When subdivisions (a)(1), (2), and (3) do not apply, the sale is sourced to the location indicated by an address for the purchaser obtained during the consummation of the sale, including the address of a purchaser’s payment instrument, if no other address is available, when use of this address does not constitute bad faith;
5. When none of the previous rules of subdivisions (a)(1), (a)(2), (a)(3) or (a)(4) apply, including the circumstance in which the seller is without sufficient information to apply the previous rules, then the location shall be determined by the address from which tangible personal property was shipped, from which the digital product or the computer software delivered electronically was first available for transmission by the seller, or from which the service was provided, disregarding for these purposes any location that merely provided the digital transfer of the product sold; and
6. Notwithstanding subdivisions (a)(1)-(5), the lease or rental that requires recurring periodic payments, the first periodic payment is sourced to the primary property location for each period covered by the payment. The primary property location shall be as indicated by an address for the property provided by the lessee that is available to the lessor from its records maintained in the ordinary course of business, when use of this address does not constitute bad faith. The property location shall not be altered by intermittent use at different locations, such as use of business property that accompanies employees on business trips and service calls; and

(b)(1) The lease or rental of tangible personal property, other than property identified in subsection (c) or (d), shall be sourced as follows:

A. For a lease or rental that requires recurring periodic payments, the first periodic payment is sourced as a retail sale in accordance with subsection (a). Periodic payments made subsequent to the first payment are sourced to the primary property location for each period covered by the payment. The primary property location shall be as indicated by an address for the property provided by the lessee that is available to the lessor from its records maintained in the ordinary course of business, when use of this address does not constitute bad faith. The property location shall not be altered by intermittent use at different locations, such as use of business property that accompanies employees on business trips and service calls; and

B. For a lease or rental that does not require recurring periodic payments, the payment is sourced as a retail sale in accordance
(2) Subdivision (b)(1) does not affect the imposition or computation of sales or use tax on leases or rentals based on a lump sum or accelerated basis, or on the acquisition of property for lease.

(c)(1) The lease or rental of motor vehicles, trailers, semi-trailers, or aircraft that do not qualify as transportation equipment, as defined in subsection (d), and watercraft with a displacement of under fifty (50) tons, shall be sourced as follows:

(A) For a lease or rental that requires recurring periodic payments, each periodic payment is sourced to the primary property location. The primary property location shall be as indicated by an address for the property provided by the lessee that is available to the lessor from its records maintained in the ordinary course of business, when use of this address does not constitute bad faith. This location shall not be altered by intermittent use at different locations; and

(B) For a lease or rental that does not require recurring periodic payments, the payment is sourced the same as a retail sale in accordance with subsection (a).

(2) Subdivision (c)(1) does not affect the imposition or computation of sales or use tax on leases or rentals based on a lump sum or accelerated basis, or on the acquisition of property for lease.

(d)(1) The retail sale, including lease or rental, of transportation equipment shall be sourced the same as a retail sale in accordance with subsection (a), notwithstanding the exclusion of lease or rental in subsection (a).

(2) For the purpose of this part, “transportation equipment” means any of the following:

(A) Locomotives and railcars that are utilized for the carriage of persons or property in interstate commerce;

(B) Trucks and truck-tractors with a gross vehicle weight rating (GVWR) of ten thousand one pounds (10,001 lbs.) or greater, trailers, semi-trailers, or passenger buses that are:

(i) Registered through the International Registration Plan; and

(ii) Operated under authority of a carrier authorized and certificated by the United States department of transportation or another federal authority to engage in the carriage of persons or property in interstate commerce;

(C) Aircraft that are operated by air carriers authorized and certificated by the United States department of transportation or another federal or a foreign authority to engage in the carriage of persons or property in interstate or foreign commerce; or

(D) Containers designed for use on and component parts attached or secured on the items set forth in subdivisions (d)(2)(A)-(C).

(e)(1) For the purposes of subsection (a), “receive” and “receipt” mean:

(A) Taking possession of tangible personal property;

(B) Making first use of services; or

(C) Taking possession or making first use of digital products, whichever comes first.

(2) “Receive” and “receipt” do not include possession by a shipping company on behalf of the purchaser.
67-6-904. Direct mail certificate. [Effective on July 1, 2021.]

(a) Notwithstanding § 67-6-902, a purchaser of direct mail that is not a holder of a direct pay permit shall provide to the seller in conjunction with the purchase either a Streamlined Sales Tax certificate of exemption form claiming direct mail or information to show the jurisdictions to which the direct mail is delivered to recipients.

(1) Upon receipt of the certificate of exemption, the seller is relieved of all obligations to collect, pay, or remit the applicable tax and the purchaser is obligated to pay or remit the applicable tax on a direct pay basis. A certificate of exemption claiming direct mail shall remain in effect for all future sales of direct mail by the seller to the purchaser until it is revoked in writing.

(2) Upon receipt of information from the purchaser showing the jurisdictions to which the direct mail is delivered to recipients, the seller shall collect the tax according to the delivery information provided by the purchaser. In the absence of bad faith, the seller is relieved of any further obligation to collect tax on any transaction where the seller has collected tax pursuant to the delivery information provided by the purchaser.

(b) If the purchaser of direct mail does not have a direct pay permit and does not provide the seller with either a certificate of exemption claiming direct mail or delivery information, as required by subsection (a), the seller shall collect the tax according to § 67-6-902(a)(5). Nothing in this subsection (b) shall limit a purchaser’s obligation for sales or use tax to any state to which the direct mail is delivered.

(c) If a purchaser of direct mail provides the seller with documentation of direct pay authority, the purchaser shall not be required to provide a Streamlined Sales Tax certificate of exemption claiming direct mail or delivery information to the seller.

67-6-905. Source of sales of telecommunication services — Definitions. [Effective until July 1, 2021. See the version effective on July 1, 2021.]

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

(1) “Air-to-ground radiotelephone service” means a radio service, as that term is defined in 47 CFR 22.99, in which common carriers are authorized to offer and provide radio telecommunications service for hire to subscribers in aircraft;

(2) “Call-by-call basis” means any method of charging for telecommunications services where the price is measured by individual calls;

(3) “Communications channel” means a physical or virtual path of communications over which signals are transmitted between or among customer channel termination points;

(4) “Customer” means the person or entity that contracts with the seller of telecommunications services. If the end user of telecommunications services is not the contracting party, the end user of the telecommunications service is the customer of the telecommunication service, but this provision only applies for the purpose of sourcing sales of telecommunications services under this section. “Customer” does not include a reseller of telecommunications service or for mobile telecommunications service of a serving carrier under an agreement to serve the customer outside the home service provider’s licensed service area;
(5) “Customer channel termination point” means the location where the customer either inputs or receives the communications;

(6) “End user” means the person who utilizes the telecommunication service. In the case of an entity, “end user” means the individual who utilizes the service on behalf of the entity;

(7) “Home service provider” means the same as that term is defined in 4 U.S.C. § 124(5);

(8) “Mobile telecommunications service” means the same as that term is defined in 4 U.S.C. § 124(7);

(9) “Place of primary use” means the street address representative of where the customer’s use of the telecommunications service primarily occurs, which must be the residential street address or the primary business street address of the customer. In the case of mobile telecommunications services, “place of primary use” must be within the licensed service area of the home service provider;

(10) “Post-paid calling service” means the telecommunications service obtained by making a payment on a call-by-call basis either through the use of a credit card or payment mechanism such as a bank card, travel card, credit card, or debit card, or by charge made to which a telephone number which is not associated with the origination or termination of the telecommunications service. A post-paid calling service includes a telecommunications service that would be a prepaid calling service except it is not exclusively a telecommunication service;

(11) “Private communication service” means a telecommunication service that entitles the customer to exclusive or priority use of a communications channel or group of channels between or among termination points, regardless of the manner in which such channel or channels are connected, and includes switching capacity, extension lines, stations, and any other associated services that are provided in connection with the use of such channel or channels; and

(12) “Service address” means:

(A) The location of the telecommunications equipment to which a customer’s call is charged and from which the call originates or terminates, regardless of where the call is billed or paid;

(B) If the location in subdivision (a)(12)(A) is not known, service address means the origination point of the signal of the telecommunications services first identified by either the seller’s telecommunications system or in information received by the seller from its service provider, where the system used to transport such signals is not that of the seller; and

(C) If the locations in subdivisions (a)(12)(A) and (a)(12)(B) are not known, the service address means the location of the customer’s place of primary use.

(b) Except for the defined telecommunication services in subsection (d), the sale of telecommunication service sold on a call-by-call basis shall be sourced to each level of taxing jurisdiction where the call:

(1) Originates and terminates in that jurisdiction; or

(2) Either originates or terminates and in which the service address is also located.

(c) Except for the defined telecommunication services in subsection (d), a sale of telecommunications services sold on a basis other than a call-by-call
basis and ancillary services are sourced to the customer’s place of primary use.

(d) The sale of the following telecommunication services shall be sourced to each level of taxing jurisdiction as follows:

(1) A sale of mobile telecommunications services other than air-to-ground radiotelephone service is sourced to the customer’s place of primary use as required by the Mobile Telecommunications Sourcing Act (4 U.S.C. §§ 116-126);

(2) A sale of post-paid calling service is sourced to the origination point of the telecommunications signal as first identified by either:

   (A) The seller’s telecommunications system; or

   (B) Information received by the seller from its service provider, where the system used to transport such signals is not that of the seller;

(3) A sale of a private communication service is sourced as follows:

   (A) Service for a separate charge related to a customer channel termination point is sourced to each level of jurisdiction in which such customer channel termination point is located;

   (B) Service where all customer termination points are located entirely within one (1) jurisdiction or levels of jurisdiction is sourced in such jurisdiction in which the customer channel termination points are located;

   (C) Service for segments of a channel between two (2) customer channel termination points located in different jurisdictions and which segment of channel are separately charged is sourced fifty percent (50%) in each level of jurisdiction in which the customer channel termination points are located; and

   (D) Service for segments of a channel located in more than one (1) jurisdiction or levels of jurisdiction and which segments are not separately billed is sourced in each jurisdiction based on the percentage determined by dividing the number of customer channel termination points in such jurisdiction by the total number of customer channel termination points.

67-6-905. Source of sales of telecommunication services — Definitions.

[Effective on July 1, 2021. See the version effective until July 1, 2021.]

(a) Except for the defined telecommunication services in subsection (c), the sale of telecommunication service sold on a call-by-call basis shall be sourced to each level of taxing jurisdiction where the call:

   (1) Originates and terminates in that jurisdiction; or

   (2) Either originates or terminates and in which the service address is also located.

(b) Except for the defined telecommunication services in subsection (c), a sale of ancillary services or telecommunications services sold on a basis other than a call-by-call basis, is sourced to the customer’s place of primary use.

(c) The sale of the following telecommunication services shall be sourced to each level of taxing jurisdiction as follows:

   (1) A sale of mobile telecommunications services other than air-to-ground radiotelephone service and prepaid calling service, is sourced to the customer’s place of primary use as required by the Mobile Telecommunications Sourcing Act (4 U.S.C. §§ 116-126);

   (2) A sale of post-paid calling service is sourced to the origination point of the telecommunications signal as first identified by either:
(A) The seller's telecommunications system; or
(B) Information received by the seller from its service provider, where the system used to transport such signals is not that of the seller;
(3) A sale of a prepaid calling service, or a sale of a prepaid wireless calling service, is sourced in accordance with § 67-6-902; provided, however, that, in the case of a sale of prepaid wireless calling service, the rule provided in § 67-6-902(a)(5) shall include as an option the location associated with the mobile telephone number; and
(4) A sale of a private communication service is sourced as follows:
(A) Service for a separate charge related to a customer channel termination point is sourced to each level of jurisdiction in which the customer channel termination point is located;
(B) Service where all customer termination points are located entirely within one (1) jurisdiction or levels of jurisdiction is sourced in the jurisdiction where the customer channel termination points are located;
(C) Service for segments of a channel between two (2) customer channel termination points located in different jurisdictions and which segments of channel are separately charged is sourced fifty percent (50%) in each level of jurisdiction in which the customer channel termination points are located; and
(D) Service for segments of a channel located in more than one (1) jurisdiction or levels of jurisdiction and which segments are not separately billed is sourced in each jurisdiction based on the percentage determined by dividing the number of customer channel termination points in the jurisdiction by the total number of customer channel termination points.

(d) For the purpose of this section, unless the context otherwise requires:
(1) “Air-to-ground radiotelephone service” means a radio service, as that term is defined in 47 CFR 22.99, in which common carriers are authorized to offer and provide radio telecommunications service for hire to subscribers in aircraft;
(2) “Call-by-call basis” means any method of charging for telecommunications services where the price is measured by individual calls;
(3) “Communications channel” means a physical or virtual path of communications over which signals are transmitted between or among customer channel termination points;
(4) “Customer” means the person or entity that contracts with the seller of telecommunications services. If the end user of telecommunications services is not the contracting party, the end user of the telecommunications service is the customer of the telecommunications service, but this subdivision (d)(4) only applies for the purpose of sourcing sales of telecommunications services under this section. “Customer” does not include a reseller of telecommunications service or for mobile telecommunications service of a serving carrier under an agreement to serve the customer outside the home service provider’s licensed service area;
(5) “Customer channel termination point” means the location where the customer either inputs or receives the communications;
(6) “End user” means the person who utilizes the telecommunication service. In the case of an entity, “end user” means the individual who utilizes the service on behalf of the entity;
(7) “Home service provider” means the same as that term is defined in the Mobile Telecommunication Sourcing Act, P.L. 106-252 (4 U.S.C. § 124(5));
(8) “Mobile telecommunications service” means the same as that term is
defined in 4 U.S.C. § 124(7);

(9) “Place of primary use” means the street address representative of where
the customer’s use of the telecommunications service primarily occurs, which
must be the residential street address or the primary business street address
of the customer. In the case of mobile telecommunications services, “place of
primary use” must be within the licensed service area of the home service
provider;

(10) “Post-paid calling service” means the telecommunications service
obtained by making a payment on a call-by-call basis, either through the use
of a credit card or payment mechanism such as a bank card, travel card,
credit card, or debit card, or by a charge made to a telephone number that is
not associated with the origination or termination of the telecommunications
service. A post-paid calling service includes a telecommunications service,
except a prepaid wireless calling service, that would be a prepaid calling
service except it is not exclusively a telecommunications service;

(11) “Prepaid calling service” means the right to access exclusively telecom-
munications services, which must be paid for in advance and which enables
the origination of calls using an access number or authorization code,
whether manually or electronically dialed, and that is sold in predetermined
units or dollars of which the number declines with use in a known amount;

(12) “Prepaid wireless calling service” means a telecommunications service
that provides the right to utilize mobile wireless service, as well as other
nontelecommunications services, including the download of digital products
delivered electronically, content and ancillary services, which must be paid
for in advance, that is sold in predetermined units or dollars, of which the
number declines with use in a known amount;

(13) “Private communication service” means a telecommunication service
that entitles the customer to exclusive or priority use of a communications
channel or group of channels between or among termination points, regard-
less of the manner in which the channel or channels are connected, and
includes switching capacity, extension lines, stations, and any other associ-
ated services that are provided in connection with the use of the channel or
channels; and

(14) “Service address” means:

(A) The location of the telecommunications equipment to which a cus-
tomer’s call is charged and from which the call originates or terminates,
regardless of where the call is billed or paid;

(B) If the location in subdivision (d)(14)(A) is not known, service address
means the origination point of the signal of the telecommunications services
first identified by either the seller’s telecommunications system or in
information received by the seller from its service provider, where the
system used to transport the signals is not that of the seller; and

(C) If the locations in subdivisions (d)(14)(A) and (B) are not known, the
service address means the location of the customer’s place of primary use.

67-6-906. Source of sales of watercraft, manufactured homes, mobile
homes, or vehicles that do not qualify as transportation
equipment. [Effective on July 1, 2021.]

(a) The retail sale, excluding the lease or rental, of watercraft with a
displacement of less than fifty (50) tons and the sale or transfer, including lease
or rental, of manufactured homes, or mobile homes; and the retail sale, excluding lease or rental, of motor vehicles, trailers, semi-trailers, or aircraft that do not qualify as transportation equipment, as defined in § 67-6-902(d); shall be sourced as follows:

(1) If a dealer regularly engaged in making sales or transfers of the property being sold, the transaction is sourced to the business location of the dealer making the sale and the dealer shall collect the applicable state and local sales tax;

(2) If the sale or transfer of property is made by a dealer or person not regularly engaged in making sales or transfers of the property being sold, and the property is required by law to be registered, registered or otherwise recorded requires sales tax to be paid to the county clerk as a prerequisite, the clerk shall collect the applicable state and local sales or use tax at the rate applicable in the clerk's county jurisdiction;

(3) In all other situations where Tennessee sales or use tax is due but has not been paid by the purchaser, the purchaser shall file a use tax return with the commissioner and pay the applicable state and local tax. In that case, the purchaser shall pay the local use tax at the rate applicable in the county or municipality where the place of primary use of the property takes place; and

(4) For purposes of subdivision (a)(3), the place of primary use of the property shall be the owner's street address in this state. If the owner has more than one (1) address in this state, the place of primary use of the property shall be the primary street address at which the owner keeps the property. The property's place of primary use shall not be altered by intermittent use at different locations, such as the use of business property that accompanies employees on business trips and service calls.

(b) Notwithstanding any other law to the contrary, the retail sale, including the lease or rental, of watercraft with a displacement of fifty (50) tons or more shall be sourced under § 67-6-902(d).

67-6-907. Retail florist. [Effective on July 1, 2021.]

(a) For purposes of this section, a “retail florist” is a seller who is primarily engaged in the retail sale of cut flowers and floral arrangements that are primarily either sold over-the-counter or delivered locally by the same florist. For this purpose, the term “primarily” means more than fifty percent (50%) of the seller's total gross sales or receipts are derived from that activity. In determining if a business is primarily a florist, the total sales price of cut flowers and floral arrangements includes all charges made by the florist to the purchaser of cut flowers and floral arrangements as separately stated delivery or service charges. All service, relay and any other charges for orders, including charges for long distance telephone calls and telegraph service that are separately stated and represent cost to the retail florist, without any mark-up, shall be considered to be part of the total selling price subject to the sales tax.

(b) Notwithstanding any other law to the contrary, the sale of cut flowers, floral arrangements, potted plants and any associated tangible personal property by a retail florist shall be sourced as follows:

(1) If the transaction takes place prior to July 1, 2009:

(A) The sale shall be sourced to the location of the florist that took the order from the purchaser, even if the florist forwards the order to another retail florist in a different taxing jurisdiction to prepare and deliver to the
recipient identified by the purchaser;

(B) The retail florist that took the order shall collect from the purchaser the applicable state sales tax and the local sales tax applicable in the retail florist’s taxing jurisdiction and remit the tax to the appropriate taxing authority; and

(C) If a Tennessee retail florist receives instructions from another retail florist for the delivery of flowers, the receiving florist shall not be held liable for tax with respect to any receipts that the florist may realize from the transaction.

(2) If the transaction takes place on or after July 1, 2009, and the retail florist taking the order forwards it to another retail florist in a different taxing jurisdiction to prepare and deliver to the recipient identified by the purchaser, the sale is sourced to the location in the taxing jurisdiction where delivery to the recipient, the purchaser’s donee, occurs, and:

(A) The retail florist that took the order shall collect from the purchaser the applicable state sales tax and the local sales tax applicable in the taxing jurisdiction where delivery to the recipient, the purchaser’s donee, occurs and remit the tax to the appropriate taxing authority; and

(B) If a Tennessee retail florist receives instructions from another retail florist for the delivery of flowers, the receiving florist shall not be held liable for sales or use tax with respect to any receipts that the florist may realize from the transaction.

67-8-101. Taxable transfers. [Not applicable to any transfer by gift made on or after January 1, 2012, see § 67-8-118.]

(a)(1) Except as otherwise provided by subdivision (a)(2), a tax is imposed upon the transfer by gift during any calendar year by any person of the following property, or any interest therein:

(A) When the transfer is from a resident of this state:
(i) Real property situated within this state;
(ii) Tangible personal property, except such as has an actual situs without this state;
(iii) All intangible personal property; and

(B) When the transfer is from a nonresident of this state:
(i) Real property situated within this state; and
(ii) Tangible personal property that has an actual situs within this state.

(2) No tax shall be imposed upon the transfer by gift made by any person on or after January 1, 2012; provided, however, this subdivision (a)(2) shall not be construed to absolve any taxpayer of liability for any tax duly imposed by this section, during any tax year that began prior to January 1, 2012.

(b) Property in which a person holds a qualifying income interest for life, which is included for taxation pursuant to subsection (e), shall be treated as a taxable transfer of such property by such person.

(c) The tax shall apply whether a gift is in trust or otherwise, and whether the gift is direct or indirect. The relinquishment or termination, other than by the donor’s death, of any power to vest in the donor the property theretofore transferred by the donor shall be considered to be a transfer by the donor by gift of the property, subject to such power and shall be taxable under this part, and any payment of the income from the property to a beneficiary other than the donor shall be considered to be a transfer by the donor of such income by
gift and shall be taxable under this part.

(d) Where a donor transfers an unqualified and unrestricted gift to a person in trust, such a transfer is a gift of a present interest where the trust instrument provides that the beneficiary has the power to demand immediate possession and enjoyment of such gift in the calendar year in which such gift is given, and contains provisions to notify such beneficiary of the right to make such demand. Where the beneficiaries of such trust are minors, or otherwise lack the capacity to make legally binding agreements, the parent or parents, other than the settlor of such trust, may exercise the right to demand possession and enjoyment in the calendar year in which the gift is given as natural guardian for and on behalf of such minor or other such beneficiary, even though such parent or parents may be a party to the trust instrument.

(e)(1) Any disposition of all or part of 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)), in any property to which this subsection (e) applies shall be treated as a transfer of such property.

(2) This subsection (e) applies to any property, if a deduction was allowed with respect to the transfer of such property to the donor:
   (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)).

(3) For purposes of taxation under this subsection (e), the classification of beneficiaries provided for by § 67-8-102 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.

(f) Transfers for educational expenses or medical expenses that are not treated as a transfer of property by gift pursuant to § 2503(e) of the Internal Revenue Code (26 U.S.C. § 2503(e)), shall not be treated as a transfer of property by gift for purposes of this part.

(g) Where property is transferred for less than an adequate and full consideration in money or money’s worth, then the amount by which the value of the property exceeded the value of the consideration shall, for the purpose of the tax imposed by this chapter, be deemed a gift, and shall be included in computing the amount of gifts made during the calendar year.

(h) If a person who would otherwise be the recipient of property by gift, inheritance or other gratuitous transfer disclaims all or part of the property in accordance with § 31-1-103 [repealed], such disclaimer shall not cause the disclaimant to be treated as having made a taxable transfer under this section.

68-1-101. Department organized into divisions — Expedited issuance of license.

(a) The department of health shall be organized into the following divisions:
   (1) The division of sanitary engineering, the head of which shall be the sanitary engineer;
   (2) The division of laboratories, the head of which shall be the bacteriologist;
   (3) The division of tuberculosis control, the head of which shall be the commissioner of health;
   (4) The division of preventable diseases, the head of which shall be the
director of preventable diseases;

(5) The division of children’s special services, the head of which shall be the director of crippled children’s service;

(6) The division of medical care, the head of which shall be the director of medical care, who shall be appointed by the governor;

(7) The division of rabies control, the head of which shall be the director of rabies control; and

(8) The division of health related boards for all administrative, fiscal, inspectional, clerical and secretarial functions of the following boards, agencies and commissions:

(A) Board of alcohol and drug abuse counselors;
(B) Board of athletic trainers;
(C) Board for professional counselors, marital and family therapists and clinical pastoral therapists;
(D) Board of chiropractic examiners;
(E) Board of communication disorders and sciences;
(F) Board of communication disorders and sciences’ council for hearing instrument specialists;
(G) Board of dentistry;
(H) Board of dietitians/nutritionists examiners;
(I) Board of dispensing opticians;
(J) Board of electrolysis examiners;
(K) Board of examiners for nursing home administrators;
(L) Board of examiners in psychology;
(M) Board of medical examiners;
(N) Board of medical examiners’ committee for clinical perfusion;
(O) Board of medical examiners’ committee on physician assistants;
(P) Board of medical examiners’ Tennessee advisory committee for acupuncture;
(Q) Board of nursing;
(R) Board of occupational therapy;
(S) Board of optometry;
(T) Board of osteopathic examination;
(U) Board of osteopathic examination’s council of certified professional midwifery;
(V) Board of pharmacy;
(W) Board of physical therapy;
(X) Board of podiatric medical examiners;
(Y) Reflexology practitioners’ registration;
(Z) Board of respiratory care;
(AA) Board of social worker licensure;
(BB) Tennessee massage licensure board;
(CC) Tennessee medical laboratory board; and
-DD) Board of veterinary medical examiners.

(b)(1) Notwithstanding any other law to the contrary, each health related board and the emergency medical services board shall establish a procedure to expedite the issuance of a license, certification or permit to perform professional services regulated by such board to a person:

(A)(i) Who is certified or licensed in another state to perform professional services in a state other than Tennessee;

(ii) Whose spouse is a member of the armed forces of the United
States; and
(iii) Whose spouse is the subject of a military transfer to this state; or
(iv) [Deleted by 2019 amendment.]

(B)(i) Who, as a member of the armed forces of the United States, carries a current license or certification in another state to perform substantially similar professional services in a state other than Tennessee; and
(ii) Who applies for a license in Tennessee within one hundred eighty (180) days of:
(a) Retiring from the armed forces of the United States;
(b) Receiving any discharge other than a dishonorable discharge from the armed forces of the United States; or
(c) Being released from active duty into a reserve component of the armed forces of the United States.

(2) The procedure shall include:
(A) Issuing the person a license, certificate or permit, if, in the opinion of the board, the requirements for certification or licensure of such other state are substantially equivalent to that required in this state; or
(B) Developing a method to authorize the person to perform professional services regulated by the board in this state by issuing the person a temporary permit for a limited period of time in accordance with § 63-1-142.

(c) The commissioner, each health related board and the emergency medical services board shall, upon application for certification or licensure, accept military education, training or experience completed by a person described in subdivisions (b)(1)(B)(ii)(a)-(c) toward the qualifications to receive the license or certification if such education, training or experience is determined by the commissioner or board to be substantially equivalent to the standards of this state.

(d)(1) Notwithstanding any other law to the contrary, any member of the national guard or a reserve component of the armed forces of the United States called to active duty, and who, at the time of activation, was duly licensed or certified to perform professional services by a health related board of this state or by the emergency services board of this state, shall be kept in good standing by the board during the period of activation.

(2) A license, certification or permit issued by a health related board of this state or by the emergency services board of this state for a person described in subdivision (d)(1) shall be temporarily renewed pursuant to subdivision (d)(3) without:
(A) Payment of dues or fees;
(B) Obtaining continuing education credits when:
(i) Circumstances associated with the person's military duty prevent the obtaining of continuing education credits and a waiver request has been submitted to the appropriate health related board or to the emergency medical services board; or
(ii) The person performs the licensed or certified occupation as part of such person's military duties and provides documentation to the appropriate health related board or to the emergency medical services board; or
(C) Performing any other act typically required for the renewal of the license or certification.
(3) The license, certification or permit issued under this subsection (d) shall be continued or renewed while the person described in subdivision (d)(1) is on active duty until no later than six (6) months from the person’s release from active duty.

68-1-125. Funds for in-home visitation programs — Emphasis on evidence-based programs — Report on findings.

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

(1) “Evidence-based” means a program or practice that meets the following requirements:

(A) The program or practice is governed by a program manual or protocol that specifies the nature, quality, and amount of service that constitutes the program; and

(B) Scientific research using methods that meet high scientific standards, evaluated using either randomized controlled research designs, or quasi-experimental research designs with equivalent comparison groups. The effects of such programs must have demonstrated using two (2) or more separate client samples that the program improves client outcomes central to the purpose of the program;

(2) “In-home visitation” means a service delivery strategy that is carried out in the homes of families of children from conception to school age that provides culturally sensitive face-to-face visits by nurses, other professionals, or trained and supervised lay workers to promote positive parenting practices, enhance the socioemotional and cognitive development of children, improve the health of the family, and empower families to be self-sufficient. “In-home visitation” does not include any medicaid funded disease management or case management services or programs which may include home visits;

(3) “Pilot program” means a temporary research-based or theory-based program or project that is eligible for funding from any source to determine whether or not evidence supports its continuation beyond the fixed evaluation period. A pilot program must provide for and include:

(A) Development of a program manual or protocol that specifies the nature, quality, and amount of service that constitutes the program; and

(B) Scientific research using methods that meet high scientific standards for evaluating the effects of such programs must demonstrate on at least an annual basis whether or not the program improves client outcomes central to the purpose of the program;

(4) “Research-based” means a program or practice that has some research demonstrating effectiveness, but that does not yet meet the standard of evidence-based; and

(5) “Theory-based” means a program or practice that has general support among treatment providers and experts, based on experience or professional literature, may have anecdotal or case-study support, and has potential for becoming a research-based program or practice.

(b)(1) With the long-term emphasis on procuring services whose methods have been measured, tested, and demonstrated to improve client outcomes, the department of health, and any other state agency that administers funds related to in-home visitation programs shall ensure that fifty percent (50%) of state-appropriated funds expended for in-home visitation services are
used for evidence-based models during fiscal year 2012-2013 and that
seventy-five percent (75%) of such funds are used for evidence-based
programs during fiscal year 2013-2014 and each subsequent fiscal year
thereafter.

(2) With the goal of identifying and expanding the number and type of
available evidence-based programs, the department shall continue the
ongoing research and evaluation of sound, theory-based and research-based
programs and to that end the department may engage in and fund pilot
programs as defined in this section.

(c) The department shall include in any contract with a provider of services
related to in-home visitation programs a provision requiring that the provider
shall set forth a means to measure the outcome of the services. The measures
must include, but not be limited to, the number of people served, the type of
services provided, and the estimated rate of success of the population served.

(d) The department of health, in conjunction with a representative of the
Tennessee commission on children and youth, and with ongoing consultation of
appropriate experts and representatives of relevant providers who are ap-
pointed by the commissioner of health to provide such consultation, shall
determine which of its current programs are evidence-based, research-based
and theory-based, and shall provide a report of those findings, including an
explanation of the support of those findings, to the governor, the health and
welfare committee of the senate, the judiciary committee of the house of
representatives and the judiciary committee of the senate by no later than
January 1 of each year. The department of health shall also provide in its
report the measurements of the individual programs, as set forth in subsection
(c).

68-1-139. Training program for certified nurse practitioners in treat-
ing and processing minor who is victim of sexual offense.

(a) As used in this section, “minor” means any person who has not attained
eighteen (18) years of age.

(b) The department of health may seek a federal grant from the federal
department of health and human services’ health resources and services
administration, or any other applicable entity, for the purpose of developing a
training program for certified nurse practitioners in treating and processing a
minor who is a victim of an offense described in § 39-13-504, § 39-13-505,
531, or § 39-13-532. Participation in the training program must be free of
charge for the certified nurse practitioner participants.

68-1-140. Inclusion of data related to complications of induced abor-
tions in annual report of selected induced termination of
pregnancy data.

The department of health shall include data related to complications of
induced abortions, including the number of complications and the types of
complications, in its annual report of selected induced termination of preg-
nancy data. The department shall not release any data pursuant to this section
in a manner that could identify individual patients.

(a) The department is directed to develop a plan to establish a program for the diagnosis and treatment of certain life-threatening conditions present in the perinatal period.

(b) The program shall assist pregnant women and their fetuses and newborn infants by developing a regionalized system of care, including highly specialized personnel, equipment, and techniques, that will decrease the existing high mortality rate, neonatal death rate, pre-term birth rate, and the lifelong disabilities that currently prevail in surviving newborn infants.

(c) No programs shall be planned except those that are specifically funded by appropriations in the annual budget.

68-1-804. Items to be considered for inclusion in program.

The department, with the advice of the committee, shall, in developing the plan for this program, consider the feasibility of designing this program so as to:

(1) Develop standards for determining eligibility for diagnosis and treatment under this program;

(2) Assist in the regional development, expansion and maintenance of newborn centers, including purchase of equipment, for the diagnosis and treatment of high-risk pregnant women and their fetuses and newborn infants;

(3) Extend financial assistance in order to provide diagnosis of and treatment for pregnant women and their fetuses and newborn infants, by providing necessary medical, surgical, hospital, outpatient clinic and ambulatory services;

(4) Develop a regional system or systems of rapid transportation and referral to the obstetrical and newborn centers from throughout the state for pregnant women and their fetuses and newborns who require life-sustaining care;

(5) Develop or expand regional education and training activities to further facilitate meeting the intent of this part;

(6) Employ all necessary administrative personnel as may be provided in the budget to carry out this part;

(7) Promulgate all rules and regulations necessary to effectuate the purposes of this part;

(8) Develop or expand a communication/consultation system or systems;

(9) In consultation with organizations representing state pediatric physicians, develop appropriate standards for the dissemination of information and educational material about conditions and diseases that commonly affect newborn infants, such as respiratory syncytial virus; and

(10) Assist in the regional development, expansion, and maintenance of specialty level II birthing centers in every health region with certified obstetricians and pediatricians available who are trained in the prevention, early diagnoses, treatment, and stabilization of complications of pregnancy and childbirth.


On or before March 1 of each year the bureau of TennCare, in consultation with the perinatal advisory committee and with the assistance of relevant
state agencies, shall report to the health committee of the house of representatives and the health and welfare committee of the senate concerning the following aspects of quality and outcomes in perinatal care for the last two (2) available fiscal years or calendar years, as may be available:

(1) From information available to managed care organizations participating in the TennCare program, a description of any initiatives by the managed care organizations to improve key performance indicators of perinatal care outcomes such as maternal deaths, neonatal and fetal perinatal deaths, and pre-term births; and

(2) From vital statistical data available to the bureau of TennCare and the department, a determination of the effectiveness of managed care organizations’ initiatives toward improving perinatal care outcomes to residents in each health region.

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) Notwithstanding this section to the contrary, this subsection (i)
governs manner of death determinations of death investigations for which
suicide is suspected or determined to be the manner of death.

(2) If a county medical examiner suspects that suicide may be a potential
manner of death, then the medical examiner shall consult the decedent’s
treatment of a mental health professional or primary care physician, if known and reasonably able to be identified through the decedent’s next of kin, prior to determination of manner of death.

(3)(A) After inquiry by a county medical examiner pursuant to title 38, chapter 7, part 1, the medical examiner shall enter the manner of death and file the death certificate. If the manner of death is suicide and the next of kin disagrees with the manner of death determination, then the next of kin may contact the county medical examiner who performed the autopsy to request a meeting. The county medical examiner shall meet with the next of kin within thirty (30) calendar days of that initial contact by the requesting next of kin or, if more time is needed to gather documentation, on a mutually acceptable date. The meeting must be either in person or via teleconference, at the discretion of the requesting next of kin. At the meeting, each party must present the reasons supporting their position with respect to the manner of death, including any relevant documentation.

(B) Within thirty (30) calendar days of the meeting with the next of kin, the county medical examiner shall make a written determination on the manner of death and notify the next of kin. The notification must address the next of kin’s specific bases for disagreement, inform the next of kin of their right to seek reconsideration from the office of the state chief medical examiner (OSCME), and include information on how to request the reconsideration. The notification must also inform the next of kin of their right to seek judicial review.

(4)(A) Within one hundred twenty (120) calendar days of the notification of the manner of death from the county medical examiner, the next of kin may request reconsideration from the OSCME in writing.

(B) Within fifteen (15) calendar days of receiving the reconsideration request, the OSCME shall notify the county medical examiner of the reconsideration request and request all records and documentation from the county medical examiner and the next of kin.

(C) The county medical examiner shall send the requested records and documentation to the OSCME within fifteen (15) calendar days of receiving the request.

(D)(i)(a) Upon receipt of the records and documentation, the state chief medical examiner shall convene a peer review panel to conduct the reconsideration.

   (b) The peer review panel must consist of the state chief medical examiner and all chief medical examiners of the regional forensic centers except for the chief medical examiner of the regional forensic center for the region in which the autopsy was performed. The state chief medical examiner shall serve as chair of the peer review panel.

   (c) The chief medical examiners of the regional forensic centers may each appoint a designee to serve on the peer review panel. The designee must be a forensic pathologist licensed in this state who is employed by the regional forensic center.

   (d) The state chief medical examiner may distribute records and documentation to the peer review panel members by electronic means. The panel may meet remotely via teleconference or video conference.

   (ii) The peer review panel shall complete the reconsideration within ninety (90) calendar days of the date the OSCME receives the records
and documentation from the county medical examiner. If the initial review indicates a need for additional investigation, then the peer review panel may use an additional ninety (90) calendar days to finalize their findings and must send written notification to the next of kin that the extra ninety-calendar-day period is necessary.

(iii) Once the members of the peer review panel have completed the review of the records and documentation, the members shall vote on a manner of death determination. The state chief medical examiner shall not vote except in the event of a tie vote among all other panel members. A manner of death that achieves a simple majority of all panel members prevails, at which time a reconsideration investigation is deemed complete.

(iv) The state chief medical examiner shall prepare a written report of the peer review panel’s findings and decision and shall detail in the report the panel’s reasoning for its decision and an explanation of any additional investigation that was done. The state chief medical examiner shall send a copy of the report to the next of kin and the county medical examiner within fifteen (15) calendar days of the completion of the investigation.

(5)(A) If the findings of a reconsideration conducted pursuant to subdivision (i)(4) support the original manner of death determination made by the county medical examiner, then the next of kin may appeal that decision to a court of competent jurisdiction.

(B) If the findings of a reconsideration conducted pursuant to subdivision (i)(4) support a manner of death determination other than suicide, then the state chief medical examiner shall, no later than fifteen (15) calendar days after the date of the written report, amend the manner of death.

(6)(A) Next of kin may terminate a reconsideration process requested pursuant to this subsection (i) at any time and for any reason by written notice to the OSCME of their intent to terminate the reconsideration.

(B) Next of kin may seek judicial review at any time during the reconsideration process following the receipt of the original death certificate by written notice to the OSCME of their intent to seek judicial review.

(7) By requesting reconsideration under this subsection (i), the next of kin authorizes release of any medical records, hospital records, investigative reports, or other documentary evidence of the deceased that the peer review panel deems necessary to complete the reconsideration.

(8) The department of health shall maintain a notice of decedent’s next of kin rights with regard to this subsection (i) on its public website.

(9) As used in this subsection (i), “next of kin” means the person who has the highest priority pursuant to § 62-5-703.

(10) This subsection (i) applies only when the manner of death is suspected or determined to be suicide.

(11) A physician, who acts in good faith to comply with this subsection (i), is immune from individual civil liability in the absence of gross negligence or willful misconduct for actions authorized by this subsection (i).

(12) Unrelated parties have no liability for relying on the original death certificate, without regard to subsequent revision under this part.

(13) OSCME shall maintain statistics on the number of reconsideration requests, the number of manner of death determinations that are upheld or
overturned, and the number of next of kin terminations of a reconsideration process before the issuance of final findings. The OSCME may also maintain additional information relative to the reconsideration requests that may assist in carrying out other functions of the office.

68-3-509. Commemorative certificates of nonviable birth.

(a) As used in this section:
   (1) “Commemorative certificate” means a document commemorating a nonviable birth;
   (2) “Department” means the department of health; and
   (3) “Nonviable birth” means an unintentional, spontaneous fetal demise occurring prior to the twentieth week of gestation during a pregnancy that has been verified by a healthcare practitioner.

(b)(1) A healthcare practitioner licensed pursuant to title 63 who attends or diagnoses a nonviable birth, or a healthcare facility licensed pursuant to this title at which a nonviable birth occurs, may, based on the practitioner's best medical judgement and knowledge of the patient, advise a patient who experiences a nonviable birth that the patient may request a commemorative certificate from the department of health as provided in this section. The healthcare practitioner may delegate this duty to the practitioner's designee.

   (2) The department shall provide on the department’s website a form to be executed by a healthcare practitioner or the practitioner’s designee affirming that a patient experienced a nonviable birth that the healthcare practitioner attended or diagnosed.

(c) Upon the request of the patient and submission of the executed form, the department shall issue a commemorative certificate within sixty (60) days after receipt of the request. The department shall charge a fee not to exceed its actual cost for issuing the commemorative certificate.

(d)(1) The commemorative certificate must contain the name of the fetus and the sex, if known. If the name is not furnished by the patient, the department shall fill in the commemorative certificate with the name Baby Boy or Baby Girl and the last name of the patient, and if the sex of the child is also unknown, the department shall fill in the commemorative certificate with the name Baby and the last name of the patient.

   (2) The following statement must appear on the front of the commemorative certificate:

   **This commemorative certificate is not proof of a live birth.**

(e) The department shall not register the birth associated with a commemorative certificate issued under this section or use it to calculate live birth statistics. The commemorative certificate is commemorative in nature and has no legal effect.

(f) A commemorative certificate issued under this section must not be used to establish, bring, or support a civil cause of action seeking damages against any person or entity for bodily injury, personal injury, or wrongful death for a nonviable birth.

(g) A commemorative certificate issued under this section is not a public record.

(a) This section shall be known and may be cited as the “Chronic Disease Prevention Act”.

(b) By no later than October 1, 2019, the speaker of the senate, the speaker of the house of representatives, the commissioner of health, and the governor shall establish a task force to study methods on how best to prevent cardiovascular disease, hypertension, and diabetes in this state.

(c) The task force is composed of eleven (11) members, as follows:

1. One (1) member of the senate health and welfare committee, to be appointed by the speaker of the senate;

2. One (1) member of the health committee of the house of representatives, to be appointed by the speaker of the house of representatives;

3. One (1) member of the senate finance, ways and means committee, to be appointed by the speaker of the senate;

4. One (1) member of the house finance, ways and means committee, to be appointed by the speaker of the house of representatives;

5. One (1) member of the senate who serves in a leadership position, to be appointed by the speaker of the senate;

6. One (1) member of the house of representatives who serves in a leadership position, to be appointed by the speaker of the house of representatives;

7. Three (3) persons who are subject matter experts in one (1) or more of the subjects that the task force will study, to be appointed by the governor in consultation with the commissioner of health;

8. One (1) person who is a certified medical professional from a historically black college or university offering advanced degrees in medicine, dentistry, or public health administration based in Tennessee and having a research and development unit, to be appointed by the governor; and

9. One (1) person who possesses experience in the subjects of health and public health and who has previous legislative experience, to be appointed by the governor.

(d) The person appointed under subdivision (c)(9) shall call the first meeting of the task force.

(e) By no later than December 15, 2020, the task force shall complete its findings and make recommendations in a report to the governor and to the speaker of the senate.

(f) The members of the task force shall serve without compensation but are entitled to reimbursement of any travel expenses incurred. All reimbursement for travel expenses must conform to the comprehensive state travel regulations as promulgated by the commissioner of finance and administration and approved by the attorney general and reporter.

(g) The task force ceases to exist upon completion of the task force’s report and recommendations.

68-11-216. Promulgation of rules and regulations as to fees — Licenses and annual renewal fees.

(a)(1) The board is authorized to promulgate, in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, such rules and regulations as are necessary to set fees for licensure, renewal of licensure, late renewal fees and such other fees as are necessary to comply with the intent of subsection (b), for the entities and facilities listed in
§ 68-11-202(a)(1).

(2) The entities and facilities referenced in subdivision (a)(1), except those operated by the United States government or the state of Tennessee, shall make application for licensure and renewal under this part and shall pay the fees applicable to them to the department for regulatory purposes.

(3) The licensure and annual renewal fees for the following types of home care organizations shall not exceed twenty-five percent (25%) of the total licensure and annual renewal fees set by the board for all other home care organizations:

(A) Home care organizations that also pay a fee to be licensed by the department of mental health and substance abuse services;

(B) Home care organizations owned and operated by therapists who pay a fee to be licensed under title 63, chapter 13 or chapter 17; or

(C) Home care organizations that are owned and controlled by another home care organization that pays an annual license or renewal fee.

(4) Excluded from payment of the fees as an ambulatory surgical treatment center and an outpatient diagnostic center are hospital based ambulatory surgical treatment centers and outpatient diagnostic centers that are included in the licensing and renewal fee of the hospital in which they are located.

(5) Prior to the promulgation of a rule increasing fees for licensed health care facilities, the department of health shall present to the board a detailed report justifying the proposed fee amount. The report shall include at least the following elements:

(A) The fees currently charged, the proposed new fees, and the percentage increase expected from the proposed fees;

(B) The total number of full-time equivalent positions funded, and how those positions are funded, if not entirely from fee revenue;

(C) Justification for any increase in fees, including an itemization of actual or expected increases in costs to the board, and inspection or licensure activities on which any proposed increases in funding will be spent; and

(D) A specific breakdown that differentiates the costs incurred for licensure activities under state law from any other activity required by a contractual or legal requirement with the federal government.

(6) Not later than sixty (60) calendar days prior to the presentation of the report and the information outlined in subdivision (a)(5) to the board, the report and the information outlined in subdivision (a)(5) shall be provided to the board and any provider association representing such a facility affected by a proposed change in licensure fees. The report and information shall be provided in both paper and electronic format, and shall be made available to any affected licensed facility upon request.

(7) Any increase or decrease in fees proposed or approved by the board must increase or decrease the fees for all licensed facilities by a similar percentage amount, which shall not vary more than five percent (5%) between facility types.

(b)(1) The fees established by the board shall be submitted with the appropriate applications. All fees so collected shall be deposited by the department with the state treasurer to the credit of the general fund, and shall be expended by the department and included in the appropriation made for the board in the general appropriations act.
(2) It is the intent of the general assembly that the board establish and collect fees in an amount sufficient to pay the costs of operating the board, including, but not limited to, licensure and inspection costs. On or before December 31 of each year, the commissioner shall certify and report to the government operations committee of each house of the general assembly, if the board did not, during the fiscal year, collect fees in an amount sufficient to pay the costs of operating the board. If the board fails to collect sufficient fees to pay the costs of operating the board for a period of two (2) consecutive fiscal years, the board shall be reviewed by the joint evaluation committees and shall be subject to a revised termination date of June 30 of the fiscal year immediately following the second consecutive fiscal year during which the board operated at a deficit.

(c) [Deleted by 2019 amendment.]


(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 any doctor of medicine, osteopathy, dentistry, chiropractic, podiatry, or optometry; a pharmacist or pharmacy; a hospital; a home health agency; an entity providing infusion therapy services; or an entity providing medical equipment 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 § 50-7-109;

(6) “Out-of-network facility-based physician” means a physician:

(A) To whom a participating healthcare facility has granted clinical privileges;

(B) Who provides services to patients of the participating healthcare facility pursuant to those clinical privileges; and

(C) Who does not have a current contract provider agreement with the insured’s insurer;

(7) “Stabilized” means, with respect to an emergency medical condition, that no material deterioration of the condition is likely, within a reasonable medical probability, to result from or occur during transfer of the individual from a facility; 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, in excess of the cost sharing amount required in accordance with the insured’s health benefits coverage for the items and services, unless:

(1) The healthcare facility provides written notice to the insured or the insured’s personal representative, 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 out-of-network or otherwise a non-participating provider, the estimated amount that the facility will charge the insured for items and services; and

(E) A listing of anesthesiologists, radiologists, emergency room physicians, and pathologists or the groups of such healthcare providers with which the facility has contracted, including the healthcare provider or group name, phone number, and website, along with the following statement:

The physicians and other healthcare 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 or the insured's personal representative signs the written notice, acknowledging agreement to receive medical services by an out-of-network provider or should the insured or insured's personal representative refuse to sign the written notice, the healthcare facility documents in the patient's medical record that it provided the notice and that the patient refused to sign the notice.

(c) Prior to admission for a scheduled medical procedure, a healthcare facility shall provide the insured with informational materials that include the following:

(1) The estimated amount of copay, deductible, or coinsurance, or range of estimates, that the facility will charge the insured for scheduled items and/or services provided by the facility in accordance with the insured's health benefit coverage for the items and services or as estimated by the insurance company on its website for its insured or through the available information to the facility at the time of prior authorization;

(2) A listing of anesthesiologists, radiologists, emergency room physicians, and pathologists or the groups of such healthcare providers with which the facility is contracted, including the healthcare provider 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 failure of the healthcare facility to provide the notice required by subdivision (b)(1) and subsection (c) 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 benefit.

(f) When treated at an out-of-network facility, 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 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 and will not risk the insured's health.

(g) 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.

(h) An in-network healthcare facility does not need to provide an insured with the notice required in subdivision (b)(1)(E) or (c)(3) if the healthcare facility employs all facility-based physicians or requires all facility-based physicians to participate in all of the insurance networks in which the healthcare facility has contractually prohibits all facility-based physicians from balance billing patients in excess of the cost sharing amount required in accordance with the insured's health benefits coverage for the items and services provided.

68-11-1634. Relocation of nursing home beds.

(a)(1) Any existing licensed and operating nursing home may relocate sixty-two (62) or fewer of its licensed beds to a new, separately licensed nursing home if all the following conditions are satisfied:

(A) The proposed location for the partial relocation of beds is within the same county as the original facility;

(B) Both the original licensed facility and the new separately licensed facility will be licensed to nonprofit corporations, and are affiliated
through common ownership or management;

(C) The original facility is located on a campus of not more than five (5) acres;

(D) The original facility is not less than forty (40) years old and is licensed for not less than two hundred (200) nor more than two hundred twenty-five (225) nursing home beds by the department of health; and

(E) A certificate of need application for the relocation of the beds is filed with and approved by the health services and development agency pursuant to this part.

(2) Subdivision (a)(1) does not affect a certificate of need application filed before July 1, 2019.

(b) Any beds relocated to a new location must initially have the same Medicaid certification status that the original, existing nursing home relocating its beds maintains when the certificate of need is granted allowing the movement of beds.

(c) Any certificate of need application for the partial relocation of nursing home beds provided for in this section that seeks to increase the number of licensed beds above the licensed bed capacity of the existing nursing home must be reviewed by the department and considered by the health services and development agency pursuant to § 68-11-1609(b) and is not considered an application for new nursing home beds under the criteria in §§ 68-11-1621 and 68-11-1622.

(d) Notwithstanding subsection (c), if an application for a certificate of need for the partial relocation of nursing home beds provided for in this section seeks to increase the number of licensed beds above the licensed bed capacity of the existing nursing home, that portion of the application that increases the number of beds must comply with § 68-11-1622, and is considered an application for new nursing home beds. The remaining part of the application relative to the qualified divided relocation must be reviewed by the department and considered by the health services and development agency pursuant to § 68-11-1609(b), and is not considered an application for new nursing home beds.


(a) It is the purpose of this part to ensure that foods served for public consumption in Tennessee are safe as prepared, served and delivered.

(b)(1) It is the further purpose of this part that, notwithstanding any law to the contrary, and except as provided under subdivision (b)(2), this state is the exclusive regulator of food and drink, food and drink content, amount of food and drink content, and food and drink ingredients in this state, and a local government, as that term is defined in § 7-51-2001, shall not impose a tax, fee, or otherwise regulate the wholesale or retail sale, manufacture, or distribution of any food or drink, food or drink content, amount of food or drink content, or food or drink ingredients, except as authorized under title 67, chapter 6, or § 67-4-504, or pursuant to a contract with the department of agriculture.

(2) This subsection (b) does not:

(A) Prohibit a local government from regulating zoning, building codes, locations, hours of operation, or the issuance of permits, or from performing any other local governmental functions as authorized by existing state law, with respect to food and drink sellers and vendors, vending machine
operators, food establishments, and food service establishments; or

(B) Prohibit a local department of health from enforcing existing state laws and rules pursuant to a contract with the state department of health.

68-102-102. Specific duties of commissioner of commerce and insurance.

It is the duty of the commissioner of commerce and insurance, or the commissioner’s deputies or assistants, to enforce the laws and this chapter in the counties, relating to the:

(1) Prevention of fires;
(2) Storage, sale and use of combustibles and explosives;
(3) Installation and maintenance of automatic or other fire alarm systems and fire extinguishing equipment;
(4) Construction, maintenance and regulation of fire escapes; and
(5) Means and adequacy of exit, in case of fire, from factories, asylums, hospitals, churches, schools, halls, theaters, amphitheaters, and all other places in which numbers of persons live, work or congregate, from time to time, for any purpose or purposes.

(6) [Deleted by 2019 amendment.]

68-102-115. Cooperation of insurance companies and authorized fire officials in cases of suspected arson.

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

(1) “Authorized agency” means the state fire marshal, or any person acting on the state fire marshal’s behalf, or any prosecuting attorney responsible for prosecutions in the county where the fire occurred, or any law enforcement officer responsible for investigating fire losses, and, solely for the purpose of subsection (c), means:

(A) The federal bureau of investigation or any other federal agency;
(B) The United States attorney’s office when involved in an investigation or prosecution involving the fire in question; and
(C) The Tennessee bureau of investigation;

(2) “Insurance company” means any corporation, partnership, association, person or other legal entity that sells or has sold a contract of insurance, as defined in § 56-7-101, within this state or that is doing business in this state as an insurance company under the requirements of title 56, chapter 2; and

(3) “Relevant” means information that proves, or has a tendency to prove or disprove, the existence or nonexistence of any fact that is of consequence to the investigation that suggests future behavior tendencies of a person of interest, including a propensity for violence, that may assist an insurance company in determining a fact or motive of a person of interest, or both.

(b) When an insurance company after investigation, has reason to believe that a fire loss in which it has an interest may be of other than accidental cause, then, for the purpose of notification and for having such fire loss investigated, the company shall give written notice to the state fire marshal and to such other authorized agency as it has reason to believe appropriate to expedite the investigation. The written notice shall include, but not be limited to, the name of the owner and the occupant of any building burned, the owner of any personal property burned, the date and location of the fire, and any
other facts and circumstances then known to the company that tend to establish the cause or origin of the fire. The report shall be in addition to and not in lieu of any reports that the company may be required to make by any law of the state to the commissioner of commerce and insurance or other state official.

(c) Any authorized agency involved in the investigation may request any insurance company investigating a fire loss of real or personal property to release to the requesting agency any relevant information or evidence deemed important to the authorized agency that the company may have in its possession, relating to the fire itself. The company shall release the information and cooperate with any official authorized to request the information pursuant to this section. Relevant information may include, but not be limited to:

(1) Pertinent insurance policy information relevant to any fire loss under investigation and any application for the policy;
(2) Policy premium payment records that are available;
(3) History of previous claims made by the insured for fire loss; and
(4) Material relating to the investigation of the loss, including statements of any person, proof of loss, and any other evidence relevant to the investigation.

(d) In the absence of malice, no authorized agency, and no insurance company, or person who furnishes information on behalf of either, shall be liable for damages in a civil action or subject to criminal prosecution for any oral or written statement made or any other action taken to supply information pursuant to this section. However, this section applies only to oral and written statements, provided under subsection (c), to the state fire marshal and any other authorized agency.

(e) Any authorized agency or insurance company that receives any information pursuant to this section shall hold the information in confidence and not release the information, except as provided in this section, until such time as its release is required pursuant to a criminal or civil proceeding. Any authorized agency, or its personnel, may be required to testify in any litigation in which the insurance company at interest is named as a party.

(f)(1) Any authorized agency provided with information pursuant to subsection (b) and in furtherance of its own purposes, or at the request of any other authorized agency, may release or provide such information to any other authorized agencies.
(2) Any insurance company providing information to an authorized agency or agencies pursuant to subsection (b) may request relevant information obtained in an investigation from such authorized agency and must receive, within a reasonable time, not to exceed thirty (30) days, the information requested. The authorized agency may withhold information deemed sensitive to a non-arson criminal investigation with the approval of the supervising agent. The Tennessee bureau of investigation, however, may withhold any investigative document that the bureau believes would compromise the integrity of a criminal investigation.

(g) This section shall not be construed to affect or repeal any ordinance of any municipality relating to fire prevention or the control of arson, but the jurisdiction of the fire marshal and any prosecuting attorney in such municipality is to be concurrent with that of municipal and county authorities. With the exception of subsection (d), all other provisions of this section shall not be
construed to impair any existing statutory or common law rights.

(h) This section must not be construed to inhibit the investigative rights of any insurance company. An authorized agency involved in an investigation pursuant to this section shall allow the reporting insurance company to concurrently conduct its own, independent investigation without obstruction, in accordance with the direction of and in the presence of the agency.

68-102-127. Police powers of commissioner and deputies and municipal fire investigators.

(a) The commissioner of commerce and insurance and the commissioner's deputies have police powers and have the right to make arrests when necessary to preserve the law in this department, and may, in addition to investigations made by any of the commissioner's assistants, at any time make further investigations as to the origin or circumstances of any fire occurring in this state, by the appointment of special assistants or the employment of other means necessary in the commissioner's discretion.

(b) Municipal fire investigators who have been authorized by the chief of the municipal fire department or the director of fire services to conduct investigations relative to the cause and origin of fires and/or arson investigations shall also have police powers and shall have the right to make arrests when necessary to preserve the laws of this state or their respective municipalities relative to cases of arson or suspected arson.

(c) Salaried county fire investigators who have been authorized by the chief of the county-wide fire department or the director of fire services to conduct investigations relative to the cause and origin of fires or arson investigations have police powers and have the right to make arrests when necessary to preserve the laws of this state or their respective jurisdiction relative to cases of arson or suspected arson.

68-102-129. If crime suspected, testimony and other facts presented to district attorney general.

If, after examination of witnesses or any investigation, the commissioner, or any of the commissioner's deputies or assistants, is of the opinion that the facts in relation to a fire indicate that a crime has been committed, the commissioner shall present the testimony taken on examination, together with any other data in the commissioner's possession, to the district attorney general of the county in which the crime has been committed, and the district attorney general shall call especially to the attention of the grand jury such testimony, and if the facts warrant an indictment, no prosecutor shall be required.

68-102-142. Tax on net premium receipts of fire insurance companies to defray expenses of enforcement.

For the maintenance of the division of fire prevention and the payment of expenses incident thereto, and for the maintenance of the fire investigations section transferred to the Tennessee bureau of investigation pursuant to chapter 487 of the Public Acts of 2019, and the payment of expenses incident to the duty of the fire investigations section to investigate destructive fires in this state, each fire insurance company transacting business in this state, at the same time it pays other taxes now required by law, shall pay to the
commissioner of commerce and insurance the sum of three quarters of one percent (0.75%) on the net premium receipts of the insurance companies on all business transacted by them in Tennessee, during the next preceding year, as shown by their annual statement under oath to the department of commerce and insurance. This sum shall be held in a separate fund by the commissioner, and shall be designated as the fire prevention fund, for the maintenance of the division of fire prevention and the fire investigations section, and for the payment out of the fund for the expenses and maintenance of the division and the fire investigations section shall be made only on the warrant of the commissioner, and any and all moneys on hand in this division at the end of each fiscal year shall be turned in to the general fund of the state; provided, that this state shall in no way be liable for the salaries or expenses of the fire prevention division other than the fund as provided in this section for such purposes.


(a)(1) The commissioner of commerce and insurance may, in addition to the other provisions of this part, authorize and appoint any person, acting through a professional corporation pursuant to title 48, chapter 101, part 6, who meets the qualifications enumerated in subdivision (a)(2) as a commissioned deputy electrical inspector in this division, who shall have all the power of other deputies and assistants to enter any building or premises to make inspections of the buildings and their contents, and to report the inspections in writing to the commissioner. The commissioner is directed to contract with each deputy electrical inspector through the inspector’s professional corporation to provide electrical inspection services. The contracts shall be between the commissioner and the professional corporation employing the electrical inspector and the electrical inspectors shall not be deemed employees of the state for payroll purposes or otherwise.

(2) A deputy electrical inspector shall possess:

(A) A high school diploma or GED® certificate;

(B) Practical experience consisting of at least five (5) years in electrical installation or inspection; and

(C) Proof of having passed a nationally recognized certification examination prescribed by the commissioner in both electrical one- and two-family dwellings and electrical general.

(3) The commissioner shall provide a program to ensure that electrical inspection services are available throughout the state on a timely basis according to the following criteria:

(A) Geographically designated inspection territories shall be established to provide for timely inspections. An inspection shall be considered timely if it is performed within three (3) working days of when the request is made to the inspector;

(B) Each geographical territory shall be assigned to a deputy electrical inspector, acting through a professional corporation, by the commissioner after consultation with local electric power distributors and the Tennessee Association of Electrical Inspectors;
(C) Each geographical territory may also be served by back-up inspectors who may serve multiple geographic territories in order to provide for timely inspections. The commissioner has authority to contract with back-up inspectors, acting through each back-up inspector’s professional corporation.

(b)(1) Deputy electrical inspectors appointed by the commissioner, or by the city official designated by the commissioner to make appointments in cities or municipalities authorized by the commissioner to conduct electrical inspections, are authorized to inspect electrical installations upon receipt of a request from the owner of the property, a licensed electrical contractor, or from any person, association, or corporation supplying electrical energy to the installations, or from municipal governing bodies, or from the county legislative body of the county in which the installations are located. Each inspector, acting through the inspector’s professional corporation, is authorized to charge for and receive a fee for each inspection.

(2) The commissioner has the authority to set maximum inspection fees for services and to facilitate the administration and effective enforcement of this section.

(3) The fees in subdivision (b)(2) shall include all circuits connected to the services.

(4) The state fire marshal may require the inspection of electrical installations with or without a request, in the same manner that inspections are made in accordance with § 68-102-116, and the remedies for dangerous conditions shall be the same as provided in § 68-102-117; provided, that no fees shall be charged for making inspections directed by the state fire marshal as authorized by those sections.

(5) No inspection fees may be charged except where an actual inspection is made.

(c) Any person, association or corporation supplying electrical energy to any new installation shall have an electrical inspection approval from an authorized electrical inspector or agency before electric service is connected to the installation on a permanent basis.

(d) The maintaining of a safe electrical installation shall not be the responsibility of the power distributor beyond its service drop or service lateral connection to the customer’s or member’s service conductor.

(e)(1) A service release inspection is temporary service to allow for testing of equipment, environmental conditioning and special operational equipment for construction. The inspection is valid for a period of forty-five (45) days on designated circuits only. A service release inspection does not allow for occupancy of the structure.

(2) A service release inspection may be issued for purposes of installation and inspection of a heating, ventilation and air conditioning system (HVAC) for a manufactured home or modular building. An anchoring decal shall not be required for a service release inspection.


(a)(1) The commissioner of commerce and insurance may, in addition to the other provisions of this part, authorize and appoint any person, acting
through a professional corporation pursuant to title 48, chapter 101, part 6, who meets the qualifications enumerated in subdivision (a)(2) as a commissioned deputy electrical inspector in this division, who shall have all the power of other deputies and assistants to enter any building or premises to make inspections of the buildings and their contents, and to report the inspections in writing to the commissioner. The commissioner is directed to contract with each deputy electrical inspector through the inspector’s professional corporation to provide electrical inspection services. The contracts shall be between the commissioner and the professional corporation employing the electrical inspector and the electrical inspectors shall not be deemed employees of the state for payroll purposes or otherwise.

(2) A deputy electrical inspector shall possess:
   (A) A high school diploma or GED® certificate;
   (B) Practical experience consisting of at least five (5) years in electrical installation or inspection; and
   (C) A certificate as an electrical inspector issued under § 68-120-118.

(3) The commissioner shall provide a program to ensure that electrical inspection services are available throughout the state on a timely basis according to the following criteria:
   (A) Geographically designated inspection territories shall be established to provide for timely inspections. An inspection shall be considered timely if it is performed within three (3) working days of when the request is made to the inspector;
   (B) Each geographical territory shall be assigned to a deputy electrical inspector, acting through a professional corporation, by the commissioner after consultation with local electric power distributors and the Tennessee Association of Electrical Inspectors;
   (C) Each geographical territory may also be served by back-up inspectors who may serve multiple geographic territories in order to provide for timely inspections. The commissioner has authority to contract with back-up inspectors, acting through each back-up inspector’s professional corporation.

(b)(1) Deputy electrical inspectors appointed by the commissioner, or by the city official designated by the commissioner to make appointments in cities or municipalities authorized by the commissioner to conduct electrical inspections, are authorized to inspect electrical installations upon receipt of a request from the owner of the property, a licensed electrical contractor, or from any person, association, or corporation supplying electrical energy to the installations, or from municipal governing bodies, or from the county legislative body of the county in which the installations are located. Each inspector, acting through the inspector’s professional corporation, is authorized to charge for and receive a fee for each inspection.

(2) The commissioner has the authority to set maximum inspection fees for services and to facilitate the administration and effective enforcement of this section.

(3) The fees in subdivision (b)(2) shall include all circuits connected to the services.

(4) The state fire marshal may require the inspection of electrical installations with or without a request, in the same manner that inspections are made in accordance with § 68-102-116, and the remedies for dangerous conditions shall be the same as provided in § 68-102-117; provided, that no fees shall be charged for making inspections directed by the state fire marshal
as authorized by those sections.

(5) No inspection fees may be charged except where an actual inspection is made.

(c) Any person, association or corporation supplying electrical energy to any new installation shall have an electrical inspection approval from an authorized electrical inspector or agency before electric service is connected to the installation on a permanent basis.

(d) The maintaining of a safe electrical installation shall not be the responsibility of the power distributor beyond its service drop or service lateral connection to the customer's or member's service conductor.

(e)(1) A service release inspection is temporary service to allow for testing of equipment, environmental conditioning and special operational equipment for construction. The inspection is valid for a period of forty-five (45) days on designated circuits only. A service release inspection does not allow for occupancy of the structure.

(2) A service release inspection may be issued for purposes of installation and inspection of a heating, ventilation and air conditioning system (HVAC) for a manufactured home or modular building. An anchoring decal shall not be required for a service release inspection.

68-102-144. [Repealed.]

68-102-149. Firearms for fire officials.

(a) It is lawful for the state fire marshal provided for in § 68-102-112, and such deputies as the fire marshal may designate who are full-time salaried employees of this state, to carry a pistol or side arm while on active duty in order to protect their own lives and to effectuate the purposes of their responsibilities in investigating cases of arson or suspected arson.

(b) It is lawful for municipal fire investigators who have been authorized by the chief of the municipal fire department or the director of fire services to conduct investigations relative to the cause and origin of fires and/or arson investigations to carry a pistol or side arm while on active duty in order to protect their own lives and to effectuate the purposes of their responsibilities in investigating cases of arson or suspected arson. For the sole purpose of being able to carry a pistol, such investigators shall comply with the requirements of § 39-17-1315(a).

(c) It is lawful for salaried county fire investigators who have been authorized by the chief of the county-wide fire department or the director of fire services to conduct investigations relative to the cause and origin of fires or arson investigations to carry a pistol or side arm while on active duty in order to protect their own lives and to effectuate the purposes of their responsibilities in investigating cases of arson or suspected arson. For the sole purpose of being able to carry a pistol, such investigators shall comply with the requirements of § 39-17-1315(a).

68-102-154. Volunteer firefighter equipment and training grant program. [Effective on January 1, 2020.]

(a) A program, known as the volunteer firefighter equipment and training grant program, is created to annually provide grants to select volunteer fire departments to be used for the purchase of firefighting equipment or to meet local match requirements of federal grants for the purchase of firefighting
equipment and training.

(b) It is the legislative intent to fund the program by providing a sum-
sufficient appropriation in each fiscal year's annual appropriation bill.

(c) The commissioner of commerce and insurance shall promulgate rules in
accordance with the Uniform Administrative Procedures Act, compiled in title
4, chapter 5, to establish guidelines for evaluating grant requests and deter-
mining which volunteer fire departments will receive grants.

(d) The commissioner of commerce and insurance shall decide which grants
to award and disburse the grants to the selected volunteer fire departments. The
total amount of grants awarded each year must be equally divided among the
three (3) grand divisions of the state. The commissioner shall endeavor to
expend all funds appropriated to the program each year, and any funds
remaining will not revert to the general fund but remain available for
expenditure in subsequent fiscal years.

(e) As used in this section:

1) "Firefighting equipment" means the equipment used by a firefighter to
contain or extinguish fires and to protect the life of the firefighter, other than
fire trucks or vehicles; and

2) "Volunteer fire department" means a fire department recognized by the
state fire marshal's office, pursuant to § 68-102-304, and classified by the
Tennessee Fire Incident Reporting System (TFIRS) as a volunteer fire
department.

68-104-112. Unlawful acts in the sale and handling of fireworks. [Ef-
fective until December 31, 2020. See the version effective
on December 31, 2020.]

(a)(1) To purchase any Class C common fireworks, a person must be at least
sixteen (16) years of age. Any person sixteen (16) or seventeen (17) years of
age who wishes to purchase Class C common fireworks must provide proof of
age to the retailer or seasonal retailer by presenting a state-issued photo
identification or be accompanied by an adult. It is unlawful to offer for retail
sale or to sell any Class C common fireworks to any person under sixteen (16)
years of age or to any intoxicated or irresponsible person.

(2) It is unlawful to explode or ignite fireworks within six hundred feet
(600') of any church, hospital, asylum, public school or within two hundred
feet (200') of where fireworks are stored, sold or offered for sale.

(3) No person shall ignite or discharge any permissible articles of fire-
works within or throw any permissible articles of fireworks from a motor
vehicle while within, nor shall any person place or throw any ignited article
of fireworks into or at a motor vehicle, or at or near any person or group of
people.

(4) It is unlawful for any individual, firm, partnership or corporation to
sell at retail any Class C common fireworks within any county of this state
having a population greater than three hundred thirty-five thousand
(335,000), according to the 2010 federal census or any subsequent federal
census, except in municipalities within such counties with a population of
not less than six hundred (600) nor more than six hundred twenty (620),
according to the 1980 federal census or any subsequent census, that
permitted the sale of such fireworks before 1984; provided, that it is not
unlawful for Class C common fireworks to continue to be sold by a person on
a parcel of land that contains a fireworks stand, if:

(A) The parcel of property upon which such fireworks are sold is either partially located in a county having a population in excess of three hundred thirty-five thousand (335,000), according to the 2010 federal census or any subsequent federal census, or there is disagreement concerning whether such property is wholly contained within a county having a population in excess of three hundred thirty-five thousand (335,000), according to the 2010 federal census or any subsequent federal census; and

(B) Fireworks have been sold annually at such stand for a period of at least forty-five (45) years.

(b)(1) All items of fireworks that exceed the limits of D.O.T. Class C common fireworks as to explosive composition, such items being commonly referred to as “illegal ground salutes” designed to produce an audible effect, are expressly prohibited from shipment into, manufacture, possession, sale or use within this state for any purpose. This subdivision (b)(1) shall not affect display fireworks authorized by this chapter.

(2) A violation of subdivision (b)(1) for a second or subsequent offense is a Class E felony.

(c) Notwithstanding any other provision of law to the contrary:

(1) It shall be lawful for any individual, firm, partnership, or corporation to sell at retail any D.O.T. Class C common fireworks, as defined in § 68-104-101, within the city of East Ridge. This part shall apply to the sale of fireworks in such city; and

(2) It shall be lawful for any individual, firm, partnership, or corporation to sell at retail any D.O.T. Class C common fireworks, as defined in § 68-104-101, within a municipality with a population of not less than ten thousand one hundred seventy (10,170) nor more than ten thousand one hundred seventy-nine (10,179), according to the 2010 federal census or any subsequent census. This part shall apply to the sale of fireworks in such municipality.

68-104-211. Public displays — Permits — Fire prevention.

(a)(1) Items of fireworks that are to be used for public display only and that are otherwise prohibited for sale or use within this state include display shells designed to be fired from mortars and display set pieces defined as 1.3G fireworks or display fireworks in the regulations of the United States DOT for transportation of explosive and other dangerous articles.

(2) Public displays shall be performed only under competent supervision, and after the persons or organizations making the displays have applied for and received a permit for displays issued by the state fire marshal.

(3) Applications for permits for public displays shall be made in writing at least ten (10) days in advance of the proposed display, and the application shall show that the proposed display is to be so located and supervised that it is not hazardous to property and that it shall not endanger human lives; provided, however, that the fire marshal may accept applications and issue permits for public displays within the ten-day window and charge the applicant, in addition to the regular permit fee, an expedited permit fee, to be established by rule but not to exceed twice the amount of the regular permit fee, for the issuance of an expedited public display permit.
(4) If the display is to be performed within the limits of a municipality, the application shall so state and shall bear the signed approval of the chief supervisory officials of the fire department of the municipality. At the time the application for a permit is filed for a public display to be held within the limits of a municipality, the permittee shall send a written notification to the chief supervisory official of the police department of the municipality stating the date, time and location of the public display. At the time the application for a permit is filed for a public display to be held within the limits of the county but outside the limits of a municipality, the permittee shall send a written notification to the chief supervisory law enforcement official of the county stating the date, time and location of the public display. If the display is to be performed within the limits of a county, but outside the limits of a municipality, the application shall so state and shall bear the signed approval of the chief supervisory fire department officials of the county, or the officials' designees. The chief supervisory fire department officials of such county, or such officials' designee, shall have the authority to demand all necessary documentation to ensure that the permittee has a fire suppression vehicle or firefighter at the site of the fireworks display as required by this part. Such documentation does not have to be submitted to the department. The applicable fire department official who issues approval of the fireworks display pursuant to this section shall determine how many firefighters are required for such fireworks display.

(5) Permits issued shall be limited to the time specified in the permit, and shall not be transferable. Possession of special fireworks for resale to holders of a permit for a public fireworks display shall be confined to holders of a distributors permit only.

(b) The permittee conducting an outdoor public display of fireworks shall have at least one (1) fire suppression vehicle or apparatus with the necessary personnel on site during the outdoor display as determined by the fire department official with authority to issue approval of the fireworks display. The permittee is responsible for all costs associated with the fire suppression vehicle or apparatus.

(c)(1) The permittee conducting an indoor public display of fireworks shall have at least one (1) trained firefighter or certified fire inspector on site during the indoor display. The trained firefighter or certified fire inspector may be a volunteer firefighter, a firefighter from another jurisdiction, or an inspector with the appropriate credentials as determined by the fire department official with authority to issue approval of the fireworks display. The permittee is responsible for all costs associated with the trained firefighters or certified fire inspectors.

(2) Immediately before the start of the program that includes the use of indoor fireworks, the owner of the building or the authorized representative of the owner, shall orally notify attendees of the location of all exits from the building to be used in the event of a fire or other emergency.

(3) At least two (2) working fire extinguishers shall be in the area where the fireworks are to be employed.

(4) In any building in which indoor fireworks are to be employed, signs designating the location of all emergency exits shall be posted in each restroom that is available to the public.
68-105-103. Requirements governing blasting.

(a) The use of explosives for the purpose of blasting in the neighborhood of any public highway, dwelling house, public building, school, church, commercial or institutional building, or pipeline or other public utility facility, including, but not limited to, electrical and communications cables or wires, shall be done in accordance with this chapter and the rules and regulations promulgated by the department.

(b) Blasting operations without instrumentation will be considered as being within the limits set forth in this section, if such blasting operations are conducted in accordance with § 68-105-104 and such other rules and regulations as may be promulgated by the department.

(c) Instruments for determining particle velocity as set forth in this chapter shall be limited to such specific types of devices as have been expressly approved by the department, and the commissioner or the commissioner's duly authorized agent may enter upon any premises for the purpose of conducting or supervising any necessary instrumentations provided by this chapter.

(d) Whenever blasting operations are to be conducted within one hundred feet \( (100') \) of any pipeline distributing liquefied or liquid petroleum or manufactured, mixed or natural gas, the person who will conduct such blasting operations shall notify the department of commerce and insurance and the utility company having control of such pipeline at least three (3) full working days, except Sundays and holidays, prior to blasting. Whenever blasting operations are to be conducted on a single project for a period of more than one (1) day, a single notification of intention shall constitute compliance with the requirements of this subsection (d).

(e) Blasting operations shall not be conducted within close proximity of any public highway, unless reasonable precautionary measures are taken to safeguard the public.

(f) When blasting operations are conducted at the immediate location of any dwelling house, public building, school, church, commercial or institutional building that would result in ground vibrations having a particle velocity exceeding the limits provided by this chapter, such blasting operations may proceed after receiving written consent from the property owner or owners affected.

(g) When blasting is done in congested areas or in proximity to a structure, railway, or highway, or any other installation that may be damaged, the blaster shall take special precautions in the loading, delaying, initiation, and confinement of each blast with mats or other methods so as to control the throw of fragments, and thus prevent bodily injury or property damage.

(h) When a blast is about to be fired, ample warning shall be given to allow all persons to retreat to a safe place, and care shall be taken to ascertain that all persons are in the clear. Each blaster shall follow a definite plan of warning signals that can be clearly seen or heard by anyone in the blasting area. The blaster shall inform all persons in the proximity of the established procedure, and shall take additional precautions when entry into the area is not easily denied.

(i) Where the standard table of distance is exceeded, that is, a scaled distance that is less than 50, the blaster shall provide notice to all structures in that area.

(j)(1) Any person conducting blasting operations in the vicinity of any
pipeline referred to in subsection (d) shall use:

(A) A blast hole drilling pattern and blast initiation procedure that will provide the greatest relief possible in the direction away from the pipeline; and

(B) A type of explosive designed to limit propagation between blast holes.

(2) All blasting operations in the vicinity of any such pipeline shall be conducted as follows:

(A) The blast depth in the initial excavation shall be limited to the elevation of the top of the pipeline, plus one half (½) of the distance from the nearest blast hole to the pipeline;

(B) Subsequent excavations when approaching such pipelines shall be limited to one half (½) the horizontal distance from the nearest blast hole to the pipeline;

(C) Under the conditions described in subdivision (j)(1), the diameter of the blast hole shall not exceed three inches (3″), and only one (1) blast hole may be fired per delay;

(D) When a free face has been established to the finished depth of the trench, subdivisions (j)(1) and (2) shall not apply;

(E) Monitored blasting shall not exceed two inches (2″) per second peak particle velocity as measured by a seismograph at a liquid petroleum pipeline or four inches (4″) per second peak particle velocity as measured by a seismograph at all other pipelines referred to in subsection (d); and

(F) Any pipeline owner or operator seeking more restrictive vibration limits shall apply to the department under § 68-105-109(f), and indicate on the application the desired limit, in inches per second.

(3) When blasting is done in the vicinity of other utility lines:

(A) Reasonable precautionary measures shall be taken to protect the line; and

(B) In the case of underground utilities, the blaster shall give notice to the department and the utility company at least seventy-two (72) hours in advance of the blasting operation.

(k)(1)(A) Except as provided in subdivision (k)(5), in all instances other than as provided in subsection (d) and subdivision (k)(3)(B), the person who will be conducting blasting operations shall give notice to the department of commerce and insurance of the exact location a blast or blasts will occur. Such notice shall be made, in such manner as required by the commissioner, at least seventy-two (72) hours before the blasting operations commence.

(B) Such notice shall include a beginning and ending date for the blasting.

(C) No additional notification shall be required for blasts that are to occur during the period of time included in the notice.

(D) If a public utility provider requires blasting to restore services in unusual circumstances, the public utility provider or the provider's designated contractor may begin blasting operations prior to notifying the department; provided, that notice shall be provided as soon as possible.

(2) If the blasting operation is in a permanent location such as, but not limited to, a commercial quarry, mine or cemetery that has recurring blasting operations, the requirements of this subsection (k) shall be met if the person who will be conducting the blasting operations files a one-time
notice of the location with the department.

(3)(A) Until January 1, 2011, if notice is not given as required in this subsection (k), the commissioner may assess a fine in the amount of one hundred dollars ($100) but, for good cause shown, may waive the payment of such fine.

(B) Beginning January 1, 2011, and thereafter, for a first violation of failing to file a required notice, the commissioner may assess a fine in the amount of one hundred dollars ($100) and for a second or subsequent violation by the same person, a five hundred dollar ($500) fine shall be assessed; provided, that for good cause shown, the commissioner may waive the payment of such fine.

(C) Any fines imposed and collected pursuant to this subsection (k) shall be retained by the department to defray the cost of administering and enforcing this part.

(4) The commissioner shall file an annual report with the commerce committee of the house of representatives and the commerce and labor committee of the senate providing information in sufficient detail for the committees to determine whether the fines established pursuant to subdivision (k)(3) are sufficient to ensure the notifications are being timely filed with the commissioner. The first annual report shall be filed no later than March 1, 2012, and by March 1 thereafter; provided, that an interim report shall be filed by March 1, 2011.

(5) No person conducting blasting operations shall be required to file a report pursuant to this subdivision (k)(5) if the person utilizes five (5) pounds or less of explosives per blast.

68-120-118. Certification of municipal, county or state plumbing inspectors or mechanical inspectors. [Effective until January 1, 2020. See version effective on January 1, 2020.]

(a)(1) All persons entering into employment after July 1, 2008, as a municipal, county or state employed plumbing inspector or mechanical inspector, or both, having jurisdiction to enforce this chapter shall receive certification from the state fire marshal before enforcing applicable plumbing, mechanical and fuel gas codes. Plumbing and mechanical inspectors hired after July 1, 2008, shall have up to twelve (12) months from the date of employment to receive certification. Municipal, county or state plumbing and mechanical inspectors employed on July 1, 2008, shall be deemed to meet the certification qualifications of this chapter for three (3) years from the date of certification. On the expiration date of the three-year period, all plumbing and mechanical inspectors deemed to meet the qualifications set out by this subdivision (a)(1) shall meet all requirements of subdivision (a)(2) in order to be recertified. An application for certification shall be filed with the state fire marshal on a form to be developed by the state fire marshal. The state fire marshal shall promulgate rules and regulations pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, relative to the standards and qualifications for certification. The rules and regulations shall require proof satisfactory to the state fire marshal that the candidate understands all applicable plumbing, mechanical and fuel gas codes.

(2) The state fire marshal shall recognize and accept certification from the International Code Council (ICC) or the National Fire Protection Association
as satisfying the standards and qualifications for certification of municipal, county and state employed plumbing and mechanical inspectors. The state fire marshal may also recognize and accept certification from other appropriate professional building code organizations. Upon the filing of the application required by subdivision (a)(1), accompanied by the requisite fee, and a resolution by the governing body of the employing municipality or county, or a certification from the employing state agency, affirming that the applicant is performing the applicant’s duties satisfactorily, the state fire marshal shall issue certification in the same form as provided for other applicants. Certification pursuant to this section shall not be a prerequisite for plumbing and mechanical inspector employment purposes, but the employing governmental entity shall have all newly employed applicants certified within twelve (12) months of the date of employment.

(b) Certification as a plumbing and mechanical inspector shall be valid for a period of three (3) years from the date of issuance. The state fire marshal shall provide each certificate holder with a recertification application form at least sixty (60) days prior to the expiration of the certificate.

(c) Each application for recertification shall be accompanied by a recertification fee as set by the state fire marshal. The fee shall be reasonably related to the cost of maintaining certification and shall not be set at a level that would discourage compliance. All certificates shall be subject to late recertification for a period of sixty (60) days following their expiration date by payment of the prescribed fee, plus a penalty as set by the state fire marshal.

(d)(1) The state fire marshal may revoke the certification of any plumbing and mechanical inspector who does not properly enforce this chapter. Any plumbing and mechanical inspector whose certification is revoked may appeal the revocation pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5. No plumbing and mechanical inspector shall be authorized to enforce this chapter while the official’s revocation of certification is being appealed.

(2) In addition to any other penalty under law, any plumbing or mechanical inspection official who knowingly fails to enforce this chapter, and the intentional failure poses an immediate danger to the life, safety or welfare of another, commits a Class B misdemeanor.

(e) Each certificate holder shall be issued a card designating that the holder is qualified to perform inspections pursuant to this chapter. Each certificate holder shall carry the card in the certificate holder’s possession whenever the certificate holder is performing inspections pursuant to this chapter. The certificate card shall be exhibited upon request of the owner or authorized representative of the owner of the premises to be inspected.

(f) The state fire marshal shall establish, or contract for, training courses, which shall be made available to governmental employees with plumbing or mechanical responsibilities in order to enable them to acquire the knowledge and skills required to attain certification under this chapter.

68-120-118. Certification of municipal, county or state plumbing inspectors or mechanical inspectors. [Effective on January 1, 2020. See version effective until January 1, 2020.]

(a)(1)(A) All persons entering into employment after July 1, 2008, as a municipal, county or state employed plumbing inspector or mechanical
inspector, or both, having jurisdiction to enforce this chapter shall receive certification from the state fire marshal before enforcing applicable plumbing, mechanical and fuel gas codes. Plumbing and mechanical inspectors hired after July 1, 2008, shall have up to twelve (12) months from the date of employment to receive certification. Municipal, county or state plumbing and mechanical inspectors employed on July 1, 2008, shall be deemed to meet the certification qualifications of this chapter for three (3) years from the date of certification. On the expiration date of the three-year period, all plumbing and mechanical inspectors deemed to meet the qualifications set out by this subdivision (a)(1)(A) shall meet all requirements of subdivision (a)(2) in order to be recertified. An application for certification shall be filed with the state fire marshal on a form to be developed by the state fire marshal. The state fire marshal shall promulgate rules and regulations pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, relative to the standards and qualifications for certification. The rules and regulations shall require proof satisfactory to the state fire marshal that the candidate understands all applicable plumbing, mechanical and fuel gas codes.

(B) Each person entering into employment after January 1, 2020, as a municipal, county, or state-employed electrical inspector, having jurisdiction to enforce this chapter must receive certification from the state fire marshal before enforcing applicable electrical codes. Municipal, county, or state electrical inspectors employed or under contract pursuant to § 68-102-143 on January 1, 2020, are deemed to have met the certification qualifications of this section for three (3) years from the date of certification. On the expiration date of the three-year period, each electrical inspector deemed to meet such qualifications must be recertified in accordance with subdivision (a)(2). An application for certification must be filed with the state fire marshal on a form developed by the state fire marshal. The state fire marshal shall promulgate rules and regulations pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, relative to the standards and qualifications for certification. The rules and regulations must require proof satisfactory to the state fire marshal that the candidate understands all applicable electrical codes.

(2) The state fire marshal shall recognize and accept certification from a nationally or internationally recognized certifying organization to satisfy the standards and qualifications for certification of municipal, county, and state-employed plumbing, mechanical, and electrical inspectors. The state fire marshal may also recognize and accept certification from other appropriate professional building code organizations. Upon the filing of the application required by subdivision (a)(1)(A), accompanied by the requisite fee, and a resolution by the governing body of the employing municipality or county, or a certification from the employing state agency, affirming that the applicant is performing the applicant's duties satisfactorily, the state fire marshal shall issue certification in the same form as provided for other applicants. Certification pursuant to this section shall not be a prerequisite for plumbing and mechanical inspector employment purposes, but the employing governmental entity shall have all newly employed applicants certified within twelve (12) months of the date of employment.

(b) Certification as a plumbing, mechanical, or electrical inspector shall be valid for a period of three (3) years from the date of issuance. The state fire marshal shall provide each certificate holder with a recertification application
form at least sixty (60) days prior to the expiration of the certificate.

(c) Each application for recertification shall be accompanied by a recertification fee as set by the state fire marshal. The fee shall be reasonably related to the cost of maintaining certification and shall not be set at a level that would discourage compliance. All certificates shall be subject to late recertification for a period of sixty (60) days following their expiration date by payment of the prescribed fee, plus a penalty as set by the state fire marshal.

(d)(1) The state fire marshal may revoke the certification of any plumbing, mechanical, or electrical inspector who does not properly enforce this chapter. Any plumbing, mechanical, or electrical inspector whose certification is revoked may appeal the revocation pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5. No plumbing and mechanical inspector shall be authorized to enforce this chapter while the official’s revocation of certification is being appealed.

(2) In addition to any other penalty under law, any plumbing, mechanical, or electrical official or inspector who knowingly fails to enforce this chapter, and the intentional failure poses an immediate danger to the life, safety or welfare of another, commits a Class B misdemeanor.

(e) Each certificate holder shall be issued a card designating that the holder is qualified to perform inspections pursuant to this chapter. Each certificate holder shall carry the card in the certificate holder’s possession whenever the certificate holder is performing inspections pursuant to this chapter. The certificate card shall be exhibited upon request of the owner or authorized representative of the owner of the premises to be inspected.

(f) The state fire marshal shall establish, or contract for, training courses, which shall be made available to governmental employees with plumbing, mechanical, or electrical responsibilities in order to enable them to acquire the knowledge and skills required to attain certification under this chapter.

68-140-109. Monthly data on number of flight requests rejected by vendor and patient volumes transported into covered region.

(a) Unless prohibited by federal law, each regional medical communication center authorized by this part shall provide to the director by the tenth day of each month the number of flight requests rejected by a vendor, and the patient volumes transported into the covered region, for the previous month. The data must be divided into the following categories: burns, CVA, cardiac, medical, OB, psych, trauma, other, unanswered, and unknown.

(b) The director shall monthly post the data submitted pursuant to subsection (a) on the department’s website in a manner accessible to the public.

68-140-331. Limited pilot project for purpose of determining impact of EMT/AEMT training centers.

(a) A limited pilot project is established for the purpose of determining the impact of EMT/AEMT training centers operated by ambulance services licensed in this state. Under this limited pilot project, a total of fifteen (15) training centers authorized by this section may be operated. The emergency medical services board shall oversee this pilot project.

(b) 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. When considering a pilot EMT/AEMT training center application under this section, the board shall consider whether an EMT/AEMT training center exists in the relevant service area in which the pilot EMT/AEMT training center is seeking to be located.

(c)(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 center may then have classes of no more than twenty (20) students per class.

(d)(1) Any ambulance service that operates an EMT/AEMT training center must document, for each student, the student name, the course the student takes, the date the course begins and is completed, and the exam score for each time the student takes the standard certification test. For each course taught, the ambulance service training center must also report the total number of students that started the course, the total number of students that completed the course, and the percentage of those who completed the course that passed the standard certification test on the first attempt.

(2) The documentation required by subdivision (d)(1) must be submitted to the emergency medical services board and to the chancellor of the Tennessee board of regents on a quarterly basis, beginning in the quarter that the first course offered by the training center is completed.

(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. This report must be submitted by June 30 of each year the pilot project is in operation.

68-140-332. Proof of license, registration, or certification by electronic means.

Notwithstanding any law to the contrary, a person who is licensed, registered, or certificated to provide emergency medical services in this state and who is required by statute or rule to keep proof of their license, registration, or certification on their person may satisfy that requirement by providing the proof by electronic means.
68-140-406. Limitation on liability of entity responsible for program.

The entity responsible for the AED program shall not be civilly liable for any personal injury that results from an act or omission related to the use or maintenance of the AED that does not amount to willful or wanton misconduct or gross negligence.

68-211-401. Part definitions.

(a) For the purposes of this part, unless the context otherwise requires:
   (1) “Gasification” means a process through which recoverable feedstocks are heated and converted into a fuel-gas mixture in an oxygen-deficient atmosphere and the mixture is converted into valuable raw, intermediate, and final products, including, but not limited to, monomers, chemicals, waxes, lubricants, chemical feedstocks, crude oil, diesel, gasoline, diesel and gasoline blendstocks, home heating oil, and other fuels including ethanol and transportation fuel;
   (2) “Gasification facility” means a manufacturing facility that is engaged solely in the storage and gasification of recoverable feedstocks for resale or reuse and that complies with statutes and rules applicable to recovered materials processing facilities;
   (3) “Post-use polymer” means a plastic polymer that:
      (A) Is derived from any community, domestic, institutional, industrial, commercial, or other source of operations or activities and may contain incidental contaminants or impurities such as paper labels or metal rings but is not mixed with solid waste, medical waste, hazardous waste, e-waste, tires, or construction demolition debris; and
      (B) Has been diverted or removed from the solid waste stream for gasification by a gasification facility or pyrolysis by a pyrolysis facility;
   (4) “Pyrolysis” means a process through which post-use polymers are heated in the absence of oxygen until melted and thermally decomposed, and then cooled, condensed, and converted into valuable raw, intermediate, and final products, including, but not limited to, monomers, chemicals, waxes, lubricants, chemical feedstocks, crude oil, diesel, gasoline, diesel and gasoline blendstocks, home heating oil, and other fuels including ethanol and transportation fuel;
   (5) “Pyrolysis facility” means a manufacturing facility that is engaged solely in the storage and pyrolysis of post-use polymers for resale or reuse and that complies with statutes and rules applicable to recovered materials processing facilities; and
   (6) “Recoverable feedstock” means:
      (A) Post-use polymers; and
      (B) A fuel or feedstock for which the environmental protection agency has made a non-waste determination pursuant to 40 CFR 241.3(c) when it is used in gasification by a gasification facility and is not discarded or used in a manner constituting disposal.
   (b) Unless the context requires otherwise or this section defines a term differently, the definitions set forth in §§ 68-211-103 and 68-211-802 and in any rules promulgated pursuant to this chapter, apply to terms used in this part.
68-211-402. Gasification facilities or pyrolysis facilities not solid waste processing facilities or incinerators.

(a) The following facilities are not solid waste processing facilities or incinerators:
   (1) Gasification facilities; and
   (2) Pyrolysis facilities.
(b) The following materials are not solid waste:
   (1) Post-use polymers; and
   (2) Recoverable feedstocks.
(c) This part does not affect the application of any other chapter in this title or in title 69 to gasification facilities or pyrolysis facilities.

68-211-1007. Exemptions from fees on sales of automotive oil — Certification.

(a) The fee on the sale of automotive oil shall not be imposed on automotive oil:
   (1) Exported from this state by a distributor, or sold by a distributor to a wholesaler or retailer who certifies to the distributor, in accordance with subsection (b), that the automotive oil will be exported from this state by the wholesaler or retailer, or resold to a user who will export the automotive oil from this state;
   (2) Sold by a distributor to a wholesaler, retailer, or user who certifies to the distributor, in accordance with subsection (b), that the oil is oil for use with industrial machinery.
(b) The certification required in this section shall be in writing, and shall include an acknowledgement on the part of the person giving certification that such person shall be liable to the department of revenue for the fee imposed under § 68-211-1006, if the automotive oil is not sold or used in an exempt manner. Where a wholesaler or retailer certifies that the automotive oil is exempt from the fee on the basis of a subsequent resale to a person who will export the automotive oil, or use the automotive oil for an exempt purpose, the wholesaler or retailer must also obtain a certification from the purchaser that the automotive oil will be exported or used for an exempt purpose.
(c) Good faith acceptance of a certification by a distributor, wholesaler or retailer shall relieve the distributor, wholesaler or retailer from any liability to the department of revenue for the fee otherwise applicable under § 68-211-1006. If a person certifies that the automotive oil will be sold or used in an exempt manner, and the automotive oil is subsequently resold or used in a manner that does not qualify as exempt, the person making the resale or putting the automotive oil to use shall be liable to the department of revenue for the fee.

68-221-409. Permits required — Performance bond requirement — Sewer moratoriums — Disclosure upon transfer.

(a) Any person proposing to construct, alter, extend or repair subsurface sewage disposal systems, or engage in the business of removing accumulated wastes from such systems, shall secure a permit from the commissioner, in accordance with this part and rules and regulations promulgated pursuant to this part.
(b) If the permit of an installer of subsurface sewage disposal systems has
been suspended or revoked after January 1, 2006, or if the department denies an application for renewal of a permit after January 1, 2006, and the permit is later reinstated or the installer later applies for a new permit, then to be eligible to receive such reinstated or new permit, the installer shall file with the commissioner a performance bond, or an irrevocable letter of credit, in the amount of thirty thousand dollars ($30,000), for the benefit of any person who hires the installer and is damaged because of any negligence or fraud by the installer. Any person so damaged may sue directly on the bond without assignment of the bond. Liability under any such bond may not exceed, in the aggregate, the amount of the bond. If the bond of such installer later ceases to be in effect, the permit of the installer shall become null and void, subject to reinstatement, if a new bond is provided.

(c)(1) The commissioner shall not deny a permit for a subsurface sewage disposal system solely because a public sewer system is accessible if:

(A) The department or a local government has placed a moratorium on additional connections to the public sewer system; and

(B) The applicant submits documentation with the application for a permit that the applicant cannot connect, or has been delayed from connecting, to the public sewer system because of the moratorium.

(2) For purposes of subdivision (c)(1)(B), a person has been delayed from connecting to a public sewer system because of a moratorium if the person has been placed on a waiting list by the public sewer system due to a moratorium.

(d) In any transfer by sale, exchange, installment land sales contract, or lease with option to buy residential real property consisting of not less than one (1) nor more than four (4) dwelling units, including site-built and nonsite-built homes, for which a permit was issued under this part and a subsurface sewage disposal system installed, whether or not the transaction is consummated with the assistance of a licensed real estate broker or affiliate broker, the potential future obligation to connect to the public sewer system must be disclosed by the seller to the purchaser. The remedies for a failure to disclose are the same as those provided under title 66, chapter 5, part 2.