

Amendment No. 4 to HB8005

Clemmons
Signature of Sponsor

AMEND Senate Bill No.

House Bill No. 8005*

by deleting all language after the caption and substituting instead the following:

WHEREAS, Tennesseans have the right to engage in peaceful assembly and protests, and many peaceful protests and demonstrations have occurred across Tennessee in recent weeks, including on and around government property; and

WHEREAS, the rights to free speech and assembly are guaranteed under the First Amendment to the United States Constitution; and

WHEREAS, recent overnight camping and a constant presence of citizens on the War Memorial Plaza are the result of Governor Bill Lee's refusal to meet with Tennessee citizens and discuss issues concerning social justice; and

WHEREAS, Governor Bill Lee's refusal to meet with and speak to his fellow Tennesseans and his orders for the Tennessee Highway Patrol to provide twenty-four-hour security have cost taxpayers hundreds of thousands of dollars; now, therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 39-11-106(a)(38), is amended by adding the following as a new subdivision (E):

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

SECTION 2. Tennessee Code Annotated, Title 39, Chapter 13, Part 1, is amended by adding the following language as a new section:

Amendment No. 4 to HB8005

Clemmons
Signature of Sponsor

AMEND Senate Bill No.

House Bill No. 8005*

(a) A person commits assault against a first responder, if the person violates § 39-13-101 and the victim is a first responder, who is discharging or attempting to discharge the first responder's official duties.

(b) A person commits aggravated assault against a first responder, if the person violates § 39-13-102 and the victim is a first responder, who is discharging or attempting to discharge the first responder's official duties.

(c)

(1) Assault under subsection (a) is a Class A misdemeanor punishable by incarceration and a fine not to exceed fifteen thousand dollars (\$15,000).

(2) Aggravated assault under subsection (b) is a Class C felony punishable by incarceration and a fine of fifteen thousand dollars (\$15,000).

(d) For purposes of this section, "first responder":

(1) Means a law enforcement officer, firefighter, medical care responder, paramedic, emergency medical technician, healthcare provider, or other person who responds to calls for emergency assistance from a 911 call; and

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

SECTION 3. Tennessee Code Annotated, Section 39-14-408, is amended by deleting subdivision (c)(1) and substituting instead the following:

(1)

(A) A person violating subdivision (b)(1) or (b)(3) is a principal under § 39-11-401 and shall be punished as for theft under § 39-14-105, after determining value under § 39-11-106.

(B) In addition to any sentence imposed for a violation of subdivision (b)(1) or (b)(3), the court shall include an order of restitution for any property damage or loss incurred as a result of the offense.

SECTION 4. Tennessee Code Annotated, Section 39-17-301(2)(A), is amended by deleting the language "Assembling with or joining" and substituting instead the language "Joining".

SECTION 5. Tennessee Code Annotated, Section 39-17-301(2)(B), is amended by deleting the language "Being present,".

SECTION 6. Tennessee Code Annotated, Section 39-14-412, is amended by deleting subsection (c) and substituting instead the following:

(c)

(1) A violation of subsection (a) is a Class B misdemeanor. All violations shall be punished by at least twenty-five (25) hours of community service work to be determined by the court.

(2) A violation of subsection (b) is a Class A misdemeanor. In any sentence imposed for a violation of subsection (b), the court shall include an order of restitution for any property damage or loss incurred as a result of the offense.

SECTION 7. Tennessee Code Annotated, Section 39-14-414, is amended by deleting subsection (b) and substituting instead the following:

(b) As used in this section, "camping" means at any time between ten o'clock p.m. (10:00 p.m.) and seven o'clock a.m. (7:00 a.m.):

(1) Erecting or using a tent, raised tarp, or other temporary shelter or structure;

(2) Sleeping or making preparation to sleep, including laying down a sleeping bag, blanket, or other material used for bedding;

(3) Carrying on cooking activities, whether by fire or use of artificial means, such as a propane stove or other heat-producing portable cooking equipment;

(4) Making a fire or preparing to make a fire; or

(5) Doing any digging or earth breaking.

SECTION 8. Tennessee Code Annotated, Section 39-14-414(d), is amended by deleting the subsection and substituting instead the following:

(d)

(1) It is an offense for a person to engage in camping on property owned by the state knowing that the area on which the camping occurs is not specifically designated for use as a camping area by the department or agency responsible for the land.

(2) The department, agency, official, or officials responsible for the operation, protection, or maintenance of the property may designate an area as a camping area by means of signage, advertisement, or other notice designed to make known its availability for camping. However, a person is not guilty of a violation of subdivision (d)(1) unless the person received a warning not to engage in camping from an official responsible for the protection of the property in question and continued to engage in camping or returned within twenty-four (24) hours of the warning to continue to engage in camping.

(3) A person is not guilty of a violation of subdivision (d)(1) if the person was given permission or authorization by the department, agency, official, or

officials responsible for the operation, protection, or maintenance of the property to engage in camping on the property.

(4) Any items used to commit a violation of this section, including items abandoned at the location of the offense, are subject to confiscation, seizure, and claiming in accordance with subsection (e) if the items are not removed within twenty-four (24) hours of a warning first being provided.

SECTION 9. Tennessee Code Annotated, Section 39-14-414(e), is amended by deleting the subsection and substituting instead the following:

(e) Any property subject to confiscation or seizure under subsection (d), unclaimed in connection with a violation of subsection (d), or left unattended after arrest or issuance of a citation for camping in violation of subsection (d), and taken into state custody must be held by the state agency or its agent in a secure location for a period of ninety (90) days. Notice containing the contact information of the state agency or agent holding the property must be posted at the nearest reasonable location to the place from which the property was removed. If the property is not claimed within ninety (90) days of being taken into custody, the property is deemed abandoned and the agency or agent may dispose of the property, unless the property is needed for evidence in a criminal proceeding. If a person claiming the property within ninety (90) days of the property being taken into custody produces identification and signs a release form providing the person's name and contact information and swearing under oath that the property belongs to the person, then the state agency or agent shall return the property to the person, unless the property is needed for evidence in a criminal proceeding, in which case the property must be returned following the conclusion of that proceeding. The state, and its employees, agents, and contractors, are immune from liability for confiscation of property if the state, and its employees, agents, or contractors acted in compliance with subdivision (d)(4) and this subsection (e).

SECTION 10. This act shall take effect October 1, 2020, the public welfare requiring it, and applies to offenses committed on or after that date.