



ANIMAL LAWS OF TENNESSEE



**Compiled and Edited
Tennessee Laws
Pertaining to Animals**

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THE UNIVERSITY *of* TENNESSEE
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Foreword

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

The editors have designed this book principally to serve as an edited collection of Tennessee statutes relating to animals. Because these statutes were collected and edited over the past year (2003-2004), the collection is necessarily incomplete. The criteria and process used by the editors in selecting statutes of interest to our target audiences were thoughtfully conceived. However, the choices they made may differ from those that you would make. We welcome feedback from you—including suggestions for future editions—as to how we can better edit this resource to serve your needs.

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

Since we have included certain formal acknowledgements following this Foreword, I will not acknowledge here the support and encouragement provided by the organizations and institutions that have sponsored this effort. However, I feel compelled to acknowledge the important contributions of certain individuals within those organizations and institutions, even though it may be unfair to single individuals out in this respect. The detailed review, comments, and suggestions of Vicky Crosetti and Nina Margetson of CCFV's Animal Abuse Task Force were particularly helpful to the editors of this volume.

Personally, I must note that I could not have sustained my work on this project without the collaboration and patience of my colleagues Dr. John New, Professor of Veterinary Medicine and Head of the Department of Comparative Medicine at The University of Tennessee College of Veterinary Medicine, and Dr. Elizabeth Strand, Founding Director of Veterinary Social Work Services at The University of Tennessee College of Veterinary Medicine. Moreover, I need to acknowledge the cheerful personal and professional support of my Dean at the College of Law, Thomas C. Galligan, and the hard work of the four student editors of this resource, all of whom are members of the Class of 2004 at The University of Tennessee College of Law. These fearless, energetic young women have

spent an enormous amount of time on this project, often at the expense of well deserved personal and family time. As their faculty advisor on this project, I am duly proud and respectful of their individual and collective contributions to this book.

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

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Of course, it takes a collective organizational and individual effort to bring projects like this one to completion. The acknowledgements provided here only touch upon those who have been essential to the production of this resource.

However, one thing is clear. This volume was made possible by its core sponsors: the Animal Abuse Task Force of Knoxville's Community Coalition on Family Violence; the Animal Welfare Task Force formed as part of the "Nine Counties. One Vision." effort in Tennessee; The University of Tennessee Colleges of Veterinary Medicine; and The University of Tennessee College of Law. The two task forces have followed and contributed to this project from the outset. Because their members are representatives of many of the constituencies that may be served by this book, their efforts are much appreciated. The two Colleges provided research funding and administrative support for this effort at a time when human and money capital are somewhat scarce. The Editors are especially grateful for the ongoing support and assistance provided by the Colleges, and in particular for the foundational work done on this book by former College of Veterinary Medicine students Kara Campadonico and Clarivel Hernandez.

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**Compiled and Edited
Tennessee Laws
Pertaining to Animals**

§4-3-203. Powers and duties

The department of agriculture has the power to:

- 1) Encourage and promote, in every practicable manner, the interests of agriculture, including horticulture, livestock industry, dairying, poultry raising, beekeeping, production of wool and other allied industries;
- 2) Promote and improve methods of conducting agricultural industries, with a view to increasing the production, and facilitating the distribution, of products at minimum cost;
- 3) Collect, publish and distribute statistics relating to crop production and marketing of beef, pork, poultry, fish, mutton, wool, butter, cheese and other agricultural products, so far as such statistical information may be of value to the agricultural and allied interests of the state;
- 4) Inquire into the cause of contagious, infectious and communicable diseases among domestic animals, and the means for the prevention and cure of the same;
- 5) Assist, encourage and promote the organization of farmers' institutes, horticultural and agricultural societies, the holding of fairs, stock shows or other exhibits of the products of agriculture;
- 6) Cooperate with producers and consumers in devising and maintaining economical and efficient systems of distribution, and to aid in whatever way may be consistent or necessary in accomplishing the reduction of waste and expenses in marketing;
- 7) Cooperate with the agricultural college, the experiment stations of the state university and the federal government;
- 8) Enter and inspect any rights-of-way of any highway, railway, field, orchard, nursery, fruit packing house, storeroom, depot or other place where fruits are grown or stored, and inspect fruits, trees, plants, vines, shrubs or other articles within the state, and if such plants, etc., are infected with pests or with their eggs or larvae, or with any contagious disease injurious to plant life, abate the same as a nuisance; and
- 9) Enforce all of the penal and regulatory laws of the state in the same manner and with like authority as the sheriffs of the counties.

§4-3-610. Drug detection; dogs

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

§4-7-106. Powers and duties; animal diseases

- a) The Tennessee highway patrol is granted the further authority, and it is its duty, to enforce title 44, chapter 2, part 13, relative to the prevention of the spread of communicable diseases among domestic animals and protection to the livestock industry.

- b) The Tennessee highway patrol is granted the same authority and police power to enforce title 44, chapter 2 as is vested in the commissioner of agriculture and in the state veterinarian by title 44, chapter 2.
- c) Any fines assessed and collected under title 44, chapter 2, part 13 in arrests made by the Tennessee highway patrol shall be divided, one half (1/2) to the department of agriculture and one half (1/2) to the Tennessee highway patrol.

§4-7-115. Dogs

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

§5-1-115. Powers; conditions endangering citizens

- a) The authority in this section is permissive and not mandatory and may or may not be exercised by a county, as each county deems appropriate.
- b) If it is determined by the appropriate department or person, as designated by the governing body of a county, that any owner of record of real property has created, maintained or permitted to be maintained on such property, the growth of trees, vines, grass, underbrush and/or the accumulation of debris, trash, litter, garbage, or any combination of the preceding elements, or a vacant dilapidated building or structure, so as to endanger the health, safety or welfare of other citizens, or to encourage the infestation of rats and other harmful animals, the appropriate department or person shall provide notice to the owner of record to remedy the condition immediately. The notice shall be given by United States mail, addressed to the last known address of the owner of record. The notice shall state that the owner of the property is entitled to a hearing. The notice shall be written in plain language and shall also include, but not be limited to, the following elements:
 - 1) A brief statement of this section which shall contain the consequences of failing to remedy the noted condition;
 - 2) The person, office, address and telephone number of the department or person giving notice;
 - 3) A cost estimate for remedying the noted condition which shall be in conformity with the standards of cost in the community; and
 - 4) A place wherein the notified party may return a copy of the notice, indicating the desire for a hearing.
- c)
 - 1) If the person fails or refuses to remedy the condition within ten (10) days after receiving the notice, the appropriate department or person shall immediately cause the condition to be remedied or removed at a cost in conformity with reasonable standards and the cost thereof assessed against the owner of the property. The cost shall be a lien upon the property in favor of the county. These costs shall be placed upon the tax rolls of the county as a lien upon the property and shall be collected in the same manner as the county's taxes are collected, when the county causes a notice thereof to be filed in the office of the register of deeds of the county in which the property lies, second only to liens of the state, county and municipality for taxes, any lien of the county for special assessments and any valid lien, right or interest in such property duly recorded or duly

- perfected by filing, prior to the filing of such notice. Such notice shall identify the owner of record of the real property, contain the property address, describe the property sufficiently to identify it and recite the amount of the obligation secured by the lien.
- 2) If the person who is the owner of record is a carrier engaged in the transportation of property or is a utility transmitting communications, electricity, gas, liquids, steam, sewerage or other materials, the ten-day period of the first sentence of subdivision (c)(1) shall be twenty (20) days, excluding Saturdays, Sundays and legal holidays.
- d)
- 1) The county governing body or the appropriate department, or both, may make any rules and regulations necessary for the administration and enforcement of this section. The county shall provide for a hearing upon request of the person aggrieved by the determination made pursuant to subsection (b). A request for a hearing shall be made within ten (10) days following the receipt of the notice issued pursuant to subsection (b). Failure to make the request within this time shall without exception constitute a waiver of the right to a hearing.
- 2) Any person aggrieved by an order or act of the board, agency or commission under the provisions of this subsection may seek judicial review of the order or act. The time period established in subsection (c) shall be stayed during the pendency of a hearing.
- e) Except in any county having a population of
- | | |
|---------------|---------------|
| not less than | nor more than |
| 5,800 | 6,100 |
| 31,500 | 31,800 |
| 40,200 | 40,500 |
| 55,700 | 56,000 |
| 77,800 | 78,000 |
| 92,200 | 92,500 |
- according to the 1990 federal census or any subsequent federal census, the provisions of subsection (c) permitting a county to remedy such dangerous conditions shall not apply to any parcel of property upon which an owner-occupied residence is located.
- f) The provisions of this section are in addition and supplemental to, and not in substitution for, similar authority in any county's charter or other applicable law.

§5-1-120. Dogs and cats; licenses, shelters and other animal control facilities

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

§5-9-110. Animals

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

§6-2-201. Powers

Every municipality incorporated under this charter may:

- 25) Regulate, tax, license or suppress the keeping or going at large of animals within the municipality, impound them, and in default of redemption, sell or kill them;

§6-19-101. Ordinance powers

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

- 12) Grant to any person, firm, association, or corporation franchises for public utilities and public services to be furnished the city and those therein. Such power to grant franchises shall embrace the power hereby expressly conferred, to grant exclusive franchises, and whenever an exclusive franchise is granted, it shall be exclusive not only as against any other person, firm, association, or corporation, but also as against the city itself. Franchises may be granted for the period of twenty-five (25) years or less, but not longer. The board of commissioners may prescribe in each grant of a franchise, the rate, fares, charges, and regulations that may be made by the grantee of the franchise. Franchises may by their terms apply to the territory within the corporate limits of the city at the date of the franchises, and as the corporate limits thereafter may be enlarged; and to the then existing streets, alleys, and other thoroughfares that thereafter may be opened;
- 21) Impose a license tax upon any animal, thing, business, vocation, pursuit, privilege, or calling not prohibited by law;
- 29) Enforce any ordinance, rule or regulation by fines, forfeitures and penalties, and by other actions or proceedings in any court of competent jurisdiction;
- 31) Regulate, tax, license or suppress the keeping or going at large of animals within the city, impound the same and, in default of redemption, to sell or kill the same;

§6-54-113. Landowners; health and sanitation conditions; notice to remedy; collection of costs

- a) If it is determined by the appropriate department or person as designated by the governing body of a municipality that any owner of record of real property has created, maintained or permitted to be maintained on such property the growth of trees, vines, grass, underbrush and/or the accumulation of debris, trash, litter, or garbage, or any combination of the preceding elements, so as to endanger the health, safety or welfare of other citizens or to encourage the infestation of rats and other harmful animals, the appropriate department or person shall provide notice to the owner of record to remedy the condition immediately. The notice shall be given by United States mail, addressed to the last known address of the owner of record. The notice shall state that the owner of the property is entitled to a hearing. The notice shall be written in plain language and shall also include, but not be limited to, the following elements:
 - 1) A brief statement of this section which shall contain the consequences of failing to remedy the noted condition;
 - 2) The person, office, address and telephone number of the department or person giving notice;
 - 3) A cost estimate for remedying the noted condition which shall be in conformity with the standards of cost in the community; and

- 4) A place wherein the notified party may return a copy of the notice, indicating the desire for a hearing.

§7-5-103. Definitions

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

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

§7-31-106. Sidewalks; prohibited uses

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

§7-51-1401. Definitions

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

§7-63-201. Who may issue; copies; contents

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

§7-81-207. Powers

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

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

§7-86-103. Definitions

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

- 24) "911 service" means regular 911 service enhanced universal emergency number service or enhanced 911 service which is a telephone exchange communications service whereby a public safety answering point may receive telephone calls dialed to the telephone number 911. "911 service" includes lines and may include the equipment necessary for the answering, transferring and dispatching of public emergency telephone calls originated by persons within the serving area who dial 911, but does not include dial tone first from pay telephones which may be made available by the service provider based on the ability to recover the costs associated with its implementation and consistent with tariffs filed with the Tennessee regulatory authority;

§7-86-307. Statewide 911; enhanced wireless 911 service

- b) The board shall encourage and promote the planning, development, and implementation of 911 service for each newly created emergency communications district. Any emergency communications district newly created after May 20, 1998 shall have its 911 system plan approved by the board prior to implementation. The plan for each such district shall include specific local requirements. Such plan shall include, but not be limited to, law enforcement, firefighting, and emergency medical services and may include, but not be limited to, other emergency services such as poison control, animal control, suicide prevention, and emergency management services.

Such plan shall also include funding requirements necessary to implement and operate the 911 system; provided, that if anticipated revenues are not adequate to achieve and maintain technical and operating standards as established by the board in this part, the board shall undertake a study to determine other options for the provision of 911 service to that area.

§8-21-701. Fees for particular services

The county clerks, in addition to the fees allowed for services as prescribed in part 4 of this chapter, are entitled to demand and receive for the following services the fees attached:

- | | |
|----------------------------------------------------------------------------------------------------------------------------------------------------------|------|
| 24) For issuing license to exhibit shows | 5.00 |
| 25) For issuing license to stand stallion or jack | 1.00 |
| 26) For issuing license to hawk and peddle | 1.00 |
| 72) For filing, recording, and making certified copies of pedigree of any stallion, jack, or bull, claimed to be pedigreed, and used for public breeding | 50 |
| 87) For recording license to practice veterinary medicine or surgery, or for recording same upon removal to another county | 1.50 |

§8-50-103. Handicapped persons; employment discrimination; penalty; complaint procedures

- a) There shall be no discrimination in the hiring, firing and other terms and conditions of employment of the state of Tennessee or any department, agency, institution or political subdivision of the state, or of any private employer, against any applicant for

employment based solely upon any physical, mental or visual handicap of the applicant unless such handicap to some degree prevents the applicant from performing the duties required by the employment sought or impairs the performance of the work involved. Furthermore, no blind person shall be discriminated against in any such employment practices because such person uses a guide dog. A violation of this subsection (a) is a Class C misdemeanor.

- b)
- 1) Any person claiming to be aggrieved by a discriminatory practice prohibited by this section may file with the Tennessee human rights commission a written sworn complaint stating that a discriminatory practice has been committed, setting forth the facts sufficient to enable the commission to identify the persons charged.
 - 2) Upon receipt of such complaint, the commission shall follow the procedure and exercise the powers and duties provided in §§4-21-302 - 4-21-311, and the person shall have all rights provided therein.

§9-8-307. Jurisdiction; waiver of causes of action; limits on state's liability; immunities; transfer of claims

- a) The commission or each commissioner sitting individually has exclusive jurisdiction to determine all monetary claims against the state based on the acts or omissions of “state employees,” as defined in §8-42-101(3), falling within one (1) or more of the following categories:
- G) Negligent care, custody or control of animals. Damages are not recoverable under this section for damages caused by wild animals;

§11-1-103. Cooperation with wildlife resources agency; controversy between divisions

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

§11-2-107. Cooperation with wildlife resources agency; joint meetings

The conservation commission shall cooperate with the wildlife resources agency, and, in such instances as may be appropriate, the commission and agency may hold joint meetings.

§11-4-803. Wildlife protection; interagency cooperation

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

§11-5-108. Caves and caverns; vandalism; penalty

- a) It is an offense for any person, without the prior permission of the owner, to knowingly:
 - 2) Kill, harm or disturb any plant, animal or artifact found therein;
- c) An act constituting a violation of this section is to be valued according to the provisions of §39-11-106(a)(36) and punished as theft under §39-14-103.

§11-11-113. Vegetation; incompatible uses of right-of-ways; hunting restrictions

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

§11-14-106. Development

- a) The following development shall be permitted in the two (2) classes of areas:
 - 1)
 - A) Class I areas may be developed with foot trails, foot bridges, overlooks, primitive campgrounds and small picnic areas with associated sanitary facilities.
 - B) Class II areas may be developed with foot trails, foot bridges, overlooks and primitive campgrounds; and
 - 2) Either class may be developed with such facilities as may be reasonably necessary for the dissemination of educational material and for the safe and proper management and protection of the area; provided, that no such facility shall be constructed or sited in such a manner as to be inconsistent with the preservation of the natural or scientific values in a Class II area or as an intrusion upon the scenic and recreational values in a Class I area.
- b) The commissioner shall adopt rules and regulations for each natural area, specifying the activity or activities permitted. Such permissible activities shall not be inconsistent with the purpose of perpetual preservation. If, in the discretion of the commissioner, any portion of an area is deemed to be of so fragile a nature that overuse may damage it, limitations may be placed on activities within those portions. Removal of plants, animals or geological specimens shall not be permitted except by permit issued by the commissioner. If hunting or fishing are among the activities permitted by the commissioner, the commissioner shall adopt, with the advice of the wildlife resources agency, rules and regulations to regulate such activity on the

natural area in question. Such rules and regulations may be more restrictive than the rules and regulations adopted for statewide hunting and fishing by the wildlife resources agency.

§12-2-201. Authorization; duties of commissioner of general services

- a) The commissioner of general services is hereby authorized to dispose of at public sale, or to a governmental entity in accordance with the requirements of §12-2-407, all motor vehicles and intoxicating beverages which have been seized and confiscated by any duly authorized agent, employee, or representative of certain departments and agencies of the state of Tennessee; to wit, the alcoholic beverage commission, department of safety, and wildlife resources agency, including any such seizure and confiscation made by any sheriff, deputy sheriff or constable of any county, when any such motor vehicle or intoxicating beverage shall have been used, owned or possessed in violation of any of the laws of the state of Tennessee, relating to intoxicating liquors, or shall have been used, owned or possessed in violation of any of the laws relating to narcotics and contraband drugs, or when the same shall have been used, owned, or possessed in violation of certain game and fish laws, the intoxicating liquor laws being chapter 49 of the Public Acts of 1939, as amended, and compiled in title 57, chapter 3, parts 1-4, as well as chapter 119 of the Public Acts of 1941, as amended, compiled in title 57, chapter 9, part 2, and chapter 50 of Public Acts of 1919, as amended by §57-9-115, the narcotic and contraband drug laws being chapter 83 of the Public Acts of 1955, as amended, compiled in §§53-11-201, 53-11-203 and 53-11-204, and the game and fish laws being chapter 115 of the Public Acts of 1951, as amended, compiled in §§70-6-202--70-6-206.
- b)
- 1) Notwithstanding any provision of the law or this chapter to the contrary, in the sale of motor vehicles to governmental entities in accordance with the provisions of §12-2-407, it is the duty of the commissioner of general services to:
 - A) Determine the place of storage and the location of the sale of such motor vehicles;
 - B) Determine, in lieu of the provisions of §12-2-205, the fair market value of such vehicles to be sold;
 - C) Set the percentage of the sale price to be retained by the department to defray the costs of administering the sale and such percentage may exceed the amount provided in §12-2-207(a);
 - D) (i) Enter notice of the intended disposal by public sale in at least one (1) newspaper of general circulation in the county or counties in which the disposal is to be made;
 - (ii) Include in such advertisement the manner in which interested parties can obtain information regarding the make, model, condition and options which may be on a vehicle; and
 - (iii) Post printed public notices in at least two (2) public places in the county in which the vehicle was seized and confiscated, with one (1) of the public places to be the courthouse; and
 - E) Promulgate rules and regulations for the implementation of the provisions of this section.

- 2) For such sales, the provisions of §12-2-202(b) do not apply. Notwithstanding the provisions of any law or §12-2-208 to the contrary, any state, city or county officer, employee or such person's agent may buy or offer to buy motor vehicles when such purchase is in the name of and for the use of a governmental entity.

§12-2-410. Agents for disposal

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

§12-4-702. Definitions

- 4) "Property" means anything of value, including, but not limited to, real estate, tangible and intangible personal property, contract rights, choses-in- action and other interests in or claims to wealth, admission or transportation tickets, captured or domestic animals, electric or other power and signatures which purport to create, maintain or extinguish any legal obligation;

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

- a) If a trustee who conducts a business or other activity determines that it is in the best interest of all the beneficiaries to account separately for the business or activity instead of accounting for it as part of the trust's general accounting records, the trustee may maintain separate accounting records for its transactions, whether or not its assets are segregated from other trust assets.
- b) A trustee who accounts separately for a business or other activity may determine the extent to which its net cash receipts must be retained for working capital, the acquisition or replacement of fixed assets, and other reasonably foreseeable needs of the business or activity, and the extent to which the remaining net cash receipts are accounted for as principal or income in the trust's general accounting records. If a trustee sells assets of the business or other activity, other than in the ordinary course of the business or activity, the trustee shall account for the net amount received as principal in the trust's general accounting records to the extent the trustee determines that the amount received is no longer required in the conduct of the business.
- c) Activities for which a trustee may maintain separate accounting records include:
 - 1) Retail, manufacturing, service, and other traditional business activities;
 - 2) Farming;
 - 3) Raising and selling livestock and other animals;
 - 4) Management of rental properties;
 - 5) Extraction of minerals and other natural resources;
 - 6) Timber operations; and
 - 7) Activities to which §35-6-414 applies.

§35-50-118. Trusts for care of animals

- a) Any gift or devise under a will or trust having as its object the humane treatment and care of a specific animal or animals designated by the donor and testator shall be valid, even though it creates a perpetuity in such animal or animals, or creates a condition subsequent that must be fulfilled before a person is entitled to the outright receipt of the gift or devise. Such gift or devise shall be considered an honorary trust, that is, one binding the conscience of the trustee, since there is no beneficiary capable of enforcing such a trust.
- b) Such gift or devise shall provide for the appointment of a trustee to carry out the provisions of the trust, but in the event that no trustee or successor trustee is named, the person designated as donee or devisee of such gift or devise, or in the case such person is a minor, then the minor's court-appointed representative, shall serve as trustee and hold such property in trust for the benefit of such animal or animals.
- c) Any such trust shall terminate and any conditions shall be extinguished on the death of such animal or animals or as provided for by will or trust, but in all events, any such trust shall terminate twenty-one (21) years after the death of the donor or testator.

§36-5-701. Definitions

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

- 4) "License" means a license, certification, registration, permit, approval or other similar document issued to an individual evidencing admission to or granting authority to engage in a profession, trade, occupation, business, or industry, to hunt or fish, or to operate any motor vehicle or other conveyance, but does not include a license to practice law unless the supreme court establishes guidelines pursuant to §36-5-713 making the provisions of this part applicable to such license;
- 5) "Licensee" means any individual holding a license, certification, registration, permit, approval, or other similar document evidencing admission to or granting authority to engage in a profession, trade, occupation, business, or industry, to hunt or fish, or to operate any motor vehicle or other conveyance; "licensee" does not include an attorney only with respect to the attorney's license to practice law unless the supreme court establishes guidelines pursuant to §36-5-713 making the provisions of this part applicable to such license;
- 6) "Licensing authority" means the board, commission, or agency, including the department of safety, which has been established by statute or state regulation to oversee the issuance and regulation of any license. Excluded from this definition is the supreme court, unless the supreme court acts in accordance with §36-5-713, and any licensing authority established solely by the action and authority of a county or municipal government;

§36-5-713. Noncompliance with support order to affect ability to hold other licenses

- a) In addition to other qualifications for licensure or registration and conditions for continuing eligibility to hold a license as prescribed by law, rule or regulation issued under the provisions of titles 43, 44, 45, 55, 56, 62, 63, 68, 70 or 71, for an individual to engage in a profession, trade, occupation, business, or industry, to hunt or fish, or to operate any motor vehicle or other conveyance, applicants for licensure, certification or registration, and licensees renewing their licenses, and existing licensees, must not then be subject to a certification that the licensee is not in compliance with an order of support.
- b) The Supreme Court is encouraged to establish guidelines to suspend the license of an attorney who fails to comply with the requirements of §§36-5-701 - 36-5-707.

§36-5-906. Exemptions from sale

- a) Enumeration. There shall be exempt from sale of personal property subject to lien pursuant to this part:
 - 1) Wearing Apparel, School Books and Family Bible. Such items of wearing apparel and such school books as are necessary for the obligor or for members of the obligor's family, and the family bible or other book containing the family's religious beliefs;
 - 2) Fuels, Provisions, Furniture, and Personal Effects. If the obligor is the head of the family, so much of the fuel, provisions, furniture, and personal effects in the obligor's household, and of the arms for personal use, livestock, and poultry of the obligor, as does not exceed five thousand dollars (\$ 5,000) in value;
 - 3) Books and Tools of a Trade, Business, or Profession. So many of the books and tools necessary for the trade, business or profession of the obligor as do not exceed in the aggregate two thousand five hundred dollars (\$ 2,500) in value.
- b) Appraisal. The agent of the department seizing property of the type described in subsection (a) shall appraise and set aside to the owner the amount of such property declared to be exempt. If the obligor objects at the time of the seizure to the valuation fixed by the agent making the seizure, the commissioner or the commissioner's agent shall summon three (3) disinterested individuals who shall make the valuation.
- c) No Other Property Exempt. Notwithstanding any other law of the State of Tennessee, no property or rights to property shall be exempt from levy other than the property specifically made exempt by subsection (a).

§36-6-501. Definitions

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

- 1) "License" means a license, certification, registration, permit, approval or other similar document issued to an individual evidencing admission to or granting authority to engage in a profession, trade, occupation, business, or industry, or to hunt or fish, but does not include a license to practice law unless the supreme court establishes guidelines pursuant to §36-6-511 making the provisions of this part applicable to such license; "license" does not include a license to operate any motor vehicle or other conveyance;

- 2) “Licensee” means any individual holding a license, certification, registration, permit, approval, or other similar document evidencing admission to or granting authority to engage in a profession, trade, occupation, business, or industry, or to hunt or fish. “Licensee” does not include an attorney only with respect to the attorney’s license to practice law unless the supreme court establishes guidelines pursuant to §36-6-511 making the provisions of this part applicable to such license;
- 3) “Licensing authority” means the board, commission, or agency, excluding the department of safety, which has been established by statute or state regulation to oversee the issuance and regulation of any license. Excluded from this definition is the supreme court, unless the supreme court acts in accordance with §36-6-511, and any licensing authority established solely by the action and authority of a county or municipal government;

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

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

§37-1-702. Authority to establish teen court - Procedure for participation - Determining factors for participation - Authority of teen court.

- c) In choosing cases to be referred to the teen court for disposition, the juvenile court shall determine that:
 - 1) The offense underlying the juvenile petition was one (1) of the following:
 - A) Cruelty to animals, §39-14-202;

§38-6-108. Use of dogs to detect marijuana

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

§39-11-106. Title definitions

- a) The following definitions apply in this title, unless the context requires otherwise:
 - 1) “Benefit” means anything reasonably regarded as economic gain, enhancement or advantage, including benefit to any other person in whose welfare the beneficiary is interested;
 - 2) “Bodily injury” includes a cut, abrasion, bruise, burn or disfigurement; physical pain or temporary illness or impairment of the function of a bodily member, organ, or mental faculty;
 - 3) “Coercion” means a threat, however communicated, to:
 - A) Commit any offense;

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

- 8) “Deprive” means to:
 - A) Withhold property from the owner permanently or for such a period of time as to substantially diminish the value or enjoyment of the property to the owner;
 - B) Withhold property or cause it to be withheld for the purpose of restoring it only upon payment of a reward or other compensation; or
 - C) Dispose of property or use it or transfer any interest in it under circumstances that make its restoration unlikely;
- 9) “Effective consent” means assent in fact, whether express or apparent, including assent by one legally authorized to act for another. Consent is not effective when:
 - A) Induced by deception or coercion;
 - B) Given by a person the defendant knows is not authorized to act as an agent;
 - C) Given by a person who, by reason of youth, mental disease or defect, or intoxication, is known by the defendant to be unable to make reasonable decisions regarding the subject matter; or
 - D) Given solely to detect the commission of an offense;
- 10) “Emancipated minor” means any minor who is or has been married, or has by court order or otherwise been freed from the care, custody and control of the minor’s parents;
- 11) “Firearm” means any weapon designed, made or adapted to expel a projectile by the action of an explosive or any device readily convertible to that use;
- 12) “Force” means compulsion by the use of physical power or violence and shall be broadly construed to accomplish the purposes of this title;
- 13) “Fraud” is defined as used in normal parlance and includes, but is not limited to, deceit, trickery, misrepresentation and subterfuge, and shall be broadly construed to accomplish the purposes of this title;
- 14) “Government” means the state or any political subdivision thereof, and includes any branch or agency of the state, a county, municipality or other political subdivision;
- 15) “Governmental record” means anything:
 - A) Belonging to, received or kept by the government for information; or
 - B) Required by law to be kept by others for information of the government;
- 16) “Handgun” means any firearm with a barrel length of less than twelve inches (12”) that is designed, made or adapted to be fired with one (1) hand;
- 17) “Harm” means anything reasonably regarded as loss, disadvantage or injury, including harm to another person in whose welfare the person affected is interested;
- 18) “Intentional” refers to a person who acts intentionally with respect to the nature of the conduct or to a result of the conduct when it is the person’s conscious objective or desire to engage in the conduct or cause the result;
- 19) “Jail” includes workhouse and “workhouse” includes jail, whenever the context so requires or will permit;
- 20) “Knowing” refers to a person who acts knowingly with respect to the conduct or to circumstances surrounding the conduct when the person is aware of the nature of the conduct or that the circumstances exist. A person acts knowingly with respect to a result of the person’s conduct when the person is aware that the conduct is reasonably certain to cause the result;

- 21) "Law enforcement officer" means an officer, employee or agent of government who has a duty imposed by law to:
- A) Maintain public order; or
 - B) Make arrests for offenses, whether that duty extends to all offenses or is limited to specific offenses; and
 - C) Investigate the commission or suspected commission of offenses;
- 22) "Legal privilege" means a particular or peculiar benefit or advantage created by law;
- 23) "Minor" means any person under eighteen (18) years of age;
- A) "Obtain" means to:
 - (i) Bring about a transfer or purported transfer of property or of a legally recognized interest therein, whether to the defendant or another; or
 - (ii) Secure the performance of service;
 - B) "Obtain" includes, but is not limited to, the taking, carrying away or the sale, conveyance or transfer of title to or interest in or possession of property, and includes, but is not limited to, conduct heretofore known as larceny, larceny by trick, larceny by conversion, embezzlement, extortion or obtaining property by false pretenses;
- 24) "Official proceeding" means any type of administrative, executive, legislative or judicial proceeding that may be conducted before a public servant authorized by law to take statements under oath;
- 25) "Owner" means a person, other than the defendant, who has possession of or any interest other than a mortgage, deed of trust or security interest in property, even though that possession or interest is unlawful and without whose consent the defendant has no authority to exert control over the property;
- 26) "Person" includes the singular and the plural and means and includes any individual, firm, partnership, copartnership, association, corporation, governmental subdivision or agency, or other organization or other legal entity, or any agent or servant thereof;
- 27) "Property" means anything of value, including, but not limited to, money, real estate, tangible or intangible personal property, including anything severed from land, library material, contract rights, choses-in-action, interests in or claims to wealth, credit, admission or transportation tickets, captured or domestic animals, food and drink, electric or other power. Commodities of a public nature, such as gas, electricity, steam, water, cable television and telephone service constitute property, but the supplying of such a commodity to premises from an outside source by means of wires, pipes, conduits or other equipment is deemed a rendition of service rather than a sale or delivery of property;
- 28) "Public place" means a place to which the public or a group of persons has access and includes, but is not limited to, highways, transportation facilities, schools, places of amusement, parks, places of business, playgrounds and hallways, lobbies and other portions of apartment houses and hotels not constituting rooms or apartments designed for actual residence. An act is deemed to occur in a public place if it produces its offensive or proscribed consequences in a public place;
- 29) "Public servant" means:

- A) Any public officer or employee of the state or of any political subdivision thereof or of any governmental instrumentality within the state including, but not limited to, law enforcement officers;
 - B) Any person exercising the functions of any such public officer or employee;
 - C) Any person participating as an adviser, consultant or otherwise performing a governmental function, but not including witnesses or jurors; or
 - D) Any person elected, appointed or designated to become a public servant although not yet occupying that position;
- 30) “Reckless” refers to a person who acts recklessly with respect to circumstances surrounding the conduct or the result of the conduct when the person is aware of but consciously disregards a substantial and unjustifiable risk that the circumstances exist or the result will occur. The risk must be of such a nature and degree that its disregard constitutes a gross deviation from the standard of care that an ordinary person would exercise under all the circumstances as viewed from the accused person's standpoint;
- 31)
- A) “Recorded device” means the tangible medium upon which sounds and/or images are recorded or otherwise stored;
 - B) “Recorded device” includes any original phonograph record, disc, tape, audio, or videocassette, wire, film or other medium now known or later developed on which sounds and/or images are or can be recorded or otherwise stored, or any copy or reproduction which duplicates, in whole or in part, the original;
- 32) “Security officer/guard” means an individual employed to perform any function of a security officer/guard and security officer/guard patrol service as set forth in title 62, chapter 35;
- 33) “Serious bodily injury” means bodily injury which involves:
- A) A substantial risk of death;
 - B) Protracted unconsciousness;
 - C) Extreme physical pain;
 - D) Protracted or obvious disfigurement; or
 - E) Protracted loss or substantial impairment of a function of a bodily member, organ or mental faculty;
- 34) “Services” includes labor, skill, professional service, transportation, telephone, mail, gas, electricity, steam, water, cable television or other public services, accommodations in hotels, restaurants or elsewhere, admissions to exhibitions, use of vehicles or other movable property;
- 35) “Value:”
- A) Subject to the additional criteria of subdivisions (a)(36)(B)-(D), “value” under this title is:
 - (i) The fair market value of the property or service at the time and place of the offense; or
 - (ii) If the fair market value of the property cannot be ascertained, the cost of replacing the property within a reasonable time after the offense;
 - B) The value of documents, other than those having a readily ascertainable fair market value, is:

- (i) The amount due and collectible at maturity less any part that has been satisfied, if the document constitutes evidence of a debt; or
 - (ii) The greatest amount of economic loss that the owner might reasonably suffer by virtue of loss of the document, if the document is other than evidence of a debt;
 - C) If property or service has value that cannot be ascertained by the criteria set forth in subdivisions (a)(36)(A) and (B), the property or service is deemed to have a value of less than fifty dollars (\$ 50.00); and
 - D) If the defendant gave consideration for or had a legal interest in the property or service which is the object of the offense, the amount of consideration or value of the interest shall be deducted from the value of the property or service ascertained under subdivision (a)(36)(A), (B) or (C) to determine value.
- b) The definition of a term in subsection (a) applies to each grammatical variation of the term.

§39-11-616. Use of device to protect property

- a) The justification afforded by §§39-11-614 and 39-11-615 [regarding the protection of one's own real or private property and/or that of a third person when it is reasonably believed the force is immediately necessary to prevent or terminate the other's trespass on the land or unlawful interference with the property when a person who has been unlawfully dispossessed of real or personal property is justified in threatening or using force against the other when and to the degree it is reasonably believed the force is immediately necessary to reenter the land or recover the property if the person threatens or uses the force immediately or in fresh pursuit after the dispossession; and where the person reasonably believes the other had no claim of right when the other dispossessed the person; and where the other accomplished the dispossession by threatening or using force against the person] extends to the use of a device for the purpose of protecting property only if:
- 1) The device is not designed to cause or known to create a substantial risk of causing death or serious bodily harm;
 - 2) The use of the particular device to protect the property from entry or trespass is reasonable under the circumstances as the person believes them to be; and
 - 3) The device is one customarily used for such a purpose or reasonable care is taken to make known to probable intruders the fact that it is used.
- b) Nothing in this section shall affect the law regarding the use of animals to protect property or persons.

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

- a) The intentional release of a dangerous chemical or hazardous material utilized in a lawful industrial or commercial process shall be considered use of a weapon of mass destruction when a person knowingly utilizes such agents with intent and for the purpose of causing harm to persons either directly or indirectly through harm to animals or the environment. The release of dangerous chemicals or hazardous

materials for any purpose shall remain subject to regulation under federal and state environmental laws.

- b) The lawful use of chemicals for legitimate mineral extraction, industrial, agricultural, commercial, or private purposes (such as gasoline used to power engines or propane used for heating or cooking) is not proscribed by this part.
- c) No university, research institution, private company, individual, hospital, or other health care facility shall be subject to this part for actions taken in furtherance of objectives undertaken for a lawful purpose provided that such actions are taken in connection with scientific or public health research or are necessary for therapeutic or clinical purposes and, as required, are licensed or registered with the centers for disease control and prevention pursuant to the Code of Federal Regulations (CFR) or other applicable authorities.

§39-14-201. Definitions for animal offenses

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

- 1) “Animal” means a domesticated living creature or a wild creature previously captured;
- 2) “Livestock” means all equine as well as animals which are being raised primarily for use as food or fiber for human utilization or consumption including, but not limited to, cattle, sheep, swine, goats, and poultry;
- 3) “Non-livestock animal” means a pet normally maintained in or near the household or households of its owner or owners, other domesticated animal, previously captured wildlife, an exotic animal, or any other pet, including but not limited to, pet rabbits, a pet chick, duck, or pot bellied pig that is not classified as “livestock” pursuant to this part; and
- 4) “Torture” means every act, omission, or neglect whereby unreasonable physical pain, suffering, or death is caused or permitted, but nothing in this part shall be construed as prohibiting the shooting of birds or game for the purpose of human food or the use of animate targets by incorporated gun clubs.

§39-14-202. Cruelty to animals¹

- a) A person commits an offense who intentionally or knowingly:
 - 1) Tortures, maims or grossly overworks an animal;
 - 2) Fails unreasonably to provide necessary food, water, care or shelter for an animal in the person’s custody;
 - 3) Abandons unreasonably an animal in the person’s custody;
 - 4) Transports or confines an animal in a cruel manner; or
 - 5) Inflicts burns, cuts, lacerations, or other injuries or pain, by any method, including blistering compounds, to the legs or hooves of horses in order to make them sore for any purpose including, but not limited to, competition in horse shows and similar events.

¹ Note: This section should be read together with TENN. CODE ANN. §§ 39-14-207, 39-14-210 & 39-14-211, below.

- b) It is a defense to prosecution under this section that the person was engaged in accepted veterinary practices, medical treatment by the owner or with the owner's consent, or bona fide experimentation for scientific research.
- c) Whenever any person is taken into custody by any officer for violation of subdivision (a)(4), the officer may take charge of the vehicle or conveyance, and its contents, used by the person to transport the animal. The officer shall deposit these items in a safe place for custody. Any necessary expense incurred for taking charge of and sustaining the same shall be a lien thereon, to be paid before the same can lawfully be recovered; or the expenses, or any part thereof, remaining unpaid may be recovered by the person incurring the same of the owners of the animal in an action therefore.
- d) In addition to the penalty imposed in subsection (f), the court making the sentencing determination for a person convicted under this section shall order the person convicted to surrender custody and forfeit the animal or animals whose treatment was the basis of the conviction. Custody shall be given to a humane society incorporated under the laws of this state. The court may prohibit the person convicted from having custody of other animals for any period of time the court determines to be reasonable, or impose any other reasonable restrictions on the person's custody of animals as necessary for the protection of the animals.
- e)
 - 1) Nothing in this section shall be construed as prohibiting the owner of a farm animal or someone acting with the consent of the owner of such animal from engaging in usual and customary practices which are accepted by colleges of agriculture or veterinary medicine with respect to such animal.
 - 2) It is an offense for a person other than a law enforcement officer acting with probable cause to knowingly interfere with the performance of any such agricultural practices permitted by subdivision (e)(1).
 - 3) An offense under subdivision (e)(2) is a Class B misdemeanor.
- f) An offense under this section is a Class A misdemeanor.

§39-14-203. Cock and animal fighting

- a) It is unlawful for any person to:
 - 1) Own, possess, keep, use or train any bull, bear, dog, cock or other animal, for the purpose of fighting, baiting or injuring another such animal, for amusement, sport or gain;
 - 2) Cause, for amusement, sport or gain, any such animal to fight, bait or injure another animal, or each other;
 - 3) Permit any such acts stated in subdivisions (a)(1) and (2) to be done on any premises under the person's charge or control, or aid or abet such act; or
 - 4) Be knowingly present, as a spectator, at any place or building where preparations are being made for an exhibition for such fighting, baiting or injuring of any animal, with the intent to be present at such exhibition, fighting, baiting or injuring.
- b) It is the legislative intent that the provisions of this section shall not apply to the training or use of hunting dogs for sport or to the training or use of dogs for law enforcement purposes.

- c) 1) Except for any offense involving a cock, an offense under subdivisions (a)(1)-(3) is a Class E felony.
- 2) An offense involving a cock under subdivisions (a)(1)-(3) is a Class A misdemeanor.
- d) An offense under subdivision (a)(4) is a Class C misdemeanor.
- e) It is not an offense to own, possess or keep cocks, or aid or abet the ownership, possession or keeping of cocks, for the sole purpose of selling or transporting such cocks to a location in which possession or keeping of such cocks is legal.

§39-14-204. Dyed baby fowl and rabbits

- a) 1) It is unlawful for any person to:
 - A) Sell, offer for sale, barter or give away baby chickens, ducklings or goslings of any age, or rabbits under two (2) months of age, as pets, toys, premiums or novelties, if such fowl or rabbits have been colored, dyed, stained or otherwise had their natural color changed; or
 - B) Bring or transport such fowl or rabbits into the state for such purposes.
- 2) This section shall not be construed to prohibit the sale or display of such baby chickens, ducklings, or other fowl or rabbits in proper facilities by breeders or stores engaged in the business of selling for purposes of commercial breeding and raising or laboratory testing.
- 3) Each such baby chicken, duckling, other fowl or rabbit sold, offered for sale, bartered or given away in violation of this section constitutes a separate offense.
- b) A violation of this section is a Class C misdemeanor.

§39-14-205. Intentional killing of animal

- a) 1) A person who intentionally or knowingly unlawfully kills the animal of another, with the intent to deprive the owner of the right to the animal's life and without the owner's effective consent commits theft of that animal and shall be punished under §39-14-105.
- 2) In determining the value of a police dog under §39-14-105, the court shall consider the value of the police dog as both the cost and any specialized training for such police dog.
- b) A person is justified in killing the animal of another if such person acted under a reasonable belief that the animal was creating an imminent danger of death or serious bodily injury to such person or another or an imminent danger of death to an animal owned by such person. A person is not justified in killing the animal of another if at the time of the killing such person is trespassing upon the property of the owner of such animal. The justification for killing the animal of another authorized by this subsection (b) shall not apply to a person who, while engaging in or attempting to escape from criminal conduct, kills a police dog that is acting in its official capacity. In such case the provisions of subsection (a) shall apply to such person.

§39-14-206. Taking fish caught by another

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

§39-14-207. Feeding of impounded animals - Care provided by humane society - Recovery of expenses²

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

§39-14-209. Horse shows

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

² See also TENN. CODE. ANN. § 39-14-202, above, and TENN. CODE. ANN. §§ 39-14-210 & 39-14-211, below.

§39-14-210. Societies for prevention of cruelty to animals – Powers³

- a) The agents of any society which is incorporated for the prevention of cruelty to animals, upon being appointed thereto by the president of such society in any county, may, within such county, make arrests, and bring before any court thereof offenders found violating the provisions of this part with regard to non-livestock animals.
- b) Any officers, agents, or members of such society may lawfully interfere to prevent the perpetration of any act of cruelty upon any animal in such person's presence.
Any person who interferes with or obstructs any such officer, agent, or member in the discharge of this duty commits a Class C misdemeanor.
- c) Any agent or officer of such society may lawfully destroy, or cause to be destroyed, any animal found abandoned or otherwise:
 - 1) Which is not properly cared for, appearing, in the judgment of two (2) reputable citizens, who are experts, called to view the same in the agent's or officer's presence, to be glandered, injured or diseased past humane recovery; or
 - 2) After a holding period of not less than seventy-two (72) hours and after having made a reasonable effort to locate and notify the owners, for the purpose of animal population control.
- d) All fines, penalties and forfeitures imposed and collected in any county, under provisions relating to or in any way affecting animals, shall inure to such society in aid of the purpose for which it was incorporated, and no injunction shall be granted against such society or attorney or its officers or agents, except upon motion, after due notice and hearing.
- e) Any humane society chartered by the state, into whose custody shall lawfully come any animal, shall have a lien on that animal for the reasonable value of the goods and services necessarily rendered by, or at the instance of, the society to that animal.
- f) Custody of any animal victimized under this part shall be placed with any humane society chartered by the state immediately upon arrest of the person alleged to have violated this part. The humane society shall assist the animal and preserve evidence for prosecution.

§39-14-211. Examination of livestock by county agricultural extension agent⁴

No entry onto the property of another, arrest, interference with usual and customary agricultural or veterinary practices, confiscation, or any other action authorized by this part or any other provision of law shall be taken in response to an allegation that this part has been violated with regard to livestock unless, prior to or at the same time as such action, the livestock in question is examined by the county agricultural extension agent of such county, a graduate of an accredited college of veterinary medicine specializing in livestock practice or a graduate from an accredited college of agriculture with a specialty in livestock. If the extension agent, veterinary college graduate specializing in livestock practice or livestock specialist does not have probable cause to believe that a violation of this part has occurred with regard to such livestock, no action against the owner of such

³ See also TENN. CODE ANN. §§ 39-14-202 & 39-14-207, above, and TENN. CODE ANN. § 39-14-211, below.

⁴ See also TENN. CODE ANN. §§ 39-14-202, 39-14-207 & 39-14-210, above.

livestock described in this section shall be taken. If a person authorized by this section does not make an inspection within twenty-four (24) hours of receipt of a complaint, then a licensed veterinarian may make such inspection.

§39-14-212. Aggravated cruelty to animals - Definitions - Construction – Penalty

- a) A person commits aggravated cruelty to animals when, with aggravated cruelty and with no justifiable purpose, such person intentionally kills or intentionally causes serious physical injury to a companion animal.
- b) For purposes of this section:
 - 1) “Aggravated cruelty” means conduct which is done or carried out in a depraved and sadistic manner and which tortures or maims an animal;
 - 2) “Companion animal” means any non-livestock animal as defined in §39-14-201(3);
 - 3) “Elderly” means any person sixty-five (65) years of age or older; and
 - 4) “Minor” means any person under eighteen (18) years of age.
- c) The provisions of subsection (a) shall not be construed to prohibit or interfere with the following endeavors:
 - 1) The provisions of this section shall not be construed to change, modify, or amend any provision of title 70, involving fish and wildlife;
 - 2) The provisions of this section do not apply to activities or conduct that are prohibited by §39-14-203;
 - 3) The provisions of this section do not apply to equine animals or to animals defined as livestock by the provisions of §39-14-201;
 - 4) Dispatching an animal in any manner absent of aggravated cruelty;
 - 5) Engaging in lawful hunting, trapping, or fishing activities, including activities commonly associated with the hunting of small game as defined in §70-1-101(a)(34);
 - 6) Dispatching rabid or diseased animals;
 - 7) Dispatching animals posing a clear and immediate threat to human safety;
 - 8) Performing or conducting bona fide scientific tests, experiments or investigations within or for a bona fide research laboratory, facility or institution;
 - 9) Performing accepted veterinary medical practices or treatments;
 - 10) Dispatching animals in accordance with §44-17-403(e);
 - 11) Engaging, with the consent of the owner of a farm animal, in usual and customary practices which are accepted by colleges of agriculture or veterinary medicine with respect to such animal;
 - 12) Dispatching wild or abandoned animals on a farm or residential real property; or
 - 13) Applying methods and equipment used to train animals.
- d)
 - 1) A first-time conviction for aggravated cruelty to animals is a Class A misdemeanor.
 - 2) Any subsequent conviction for aggravated cruelty to animals is a Class E felony.
- e) In addition to the penalty imposed by subsection (d), the sentencing court may order the defendant to surrender custody and forfeit all companion animals as defined in subdivision (b)(2), and may award custody of such animals to the agency presenting the case. The court may prohibit the defendant from having custody of other animals

for any period of time the court determines to be reasonable, or impose any other reasonable restrictions on the person's custody of animals as is necessary for the protection of the animals.

- f) In addition to the penalty imposed by subsection (d), the court may require the defendant to undergo psychological evaluation and counseling, the cost to be borne by the defendant. If the defendant is indigent, the court may, where practicable, direct the defendant to locate and enroll in a counseling or treatment program with an appropriate agency.
- g) If a defendant convicted of a violation of this section resides in a household with minor children or elderly individuals, the court may, within fifteen (15) days, send notification of the conviction to the appropriate protective agencies.
- h) In addition to the penalty imposed by subsection (d), the defendant may be held liable to the impounding officer or agency for all costs of impoundment from the time of seizure to the time of proper disposition of the case.
- i) In addition to the penalty imposed by subsection (d), the defendant may be held liable to the owner of the animal for damages.
- j) If a juvenile is found to be within the court's jurisdiction, for conduct that, if committed by an adult, would be a criminal violation involving cruelty to animals or would be a criminal violation involving arson, then the court may order that the juvenile be evaluated to determine the need for psychiatric or psychological treatment. If the court determines that psychiatric or psychological treatment is appropriate for that juvenile, then the court may order that treatment.
- k) This section does not preclude the court from entering any other order of disposition allowed under this chapter.

§39-14-801. Short title

This part shall be known and may be cited as the “Tennessee Farm Animal and Research Facilities Protection Act.”

§39-14-802. Part definitions

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

- a)
 - 1) “Actor” means a person accused of any of the offenses defined in this part;
 - 2) “Animal” means any warm-blooded or cold-blooded animal or insect which is being used in food or fiber production, agriculture, research, testing, or education, including, but not limited to, hogs, equines, mules, cattle, sheep, goats, dogs, rabbits, poultry, fish, and bees. “Animal” does not include any animal held primarily as a pet;
 - 3) “Animal facility” means any vehicle, building, structure, pasture, paddock, pond, impoundment, or premises where an animal is kept, handled, housed, exhibited, bred, or offered for sale and any office, building, or structure where records or documents relating to an animal or to animal research, testing, production, or education are maintained;
 - 4) “Commissioner” means the commissioner of agriculture;
 - 5) “Consent” means assent in fact, whether express or implied, by the owner or by a person legally authorized to act for the owner which is not:

- A) Induced by force, threat, false pretenses, or fraud;
 - B) Given by a person the actor knows, or should have known, is not legally authorized to act for the owner;
 - C) Given by a person who by reason of youth, mental disease or defect, if intoxication is known, or should have been known, by the actor to be unable to make reasonable decisions; or
 - D) Given solely to detect the commission of an offense;
- 6) “Deprive” means unlawfully to withhold from the owner, interfere with the possession of, free, or dispose of an animal or other property;
 - 7) “Owner” means a person who has title to the property, lawful possession of the property, or a greater right to possession of the property than the actor;
 - 8) “Person” means any individual, corporation, association, nonprofit corporation, joint-stock company, firm, trust, partnership, two (2) or more persons having a joint or common interest, or other legal entity;
 - 9) “Possession” means actual care, custody, control, or management;
 - 10) “Property” means any real or personal property and includes any document, record, research data, paper, or computer storage medium; and
 - 11) “State” means the state of Tennessee.

§39-14-803. Offenses

- a) A person commits an offense if, without the consent of the owner, the person acquires or otherwise exercises control over an animal facility, an animal from an animal facility, or other property from an animal facility with the intent to deprive the owner of such facility, animal, or property and to disrupt the enterprise conducted at the animal facility.
- b) A person commits an offense if, without the consent of the owner, the person damages or destroys an animal facility or damages, frees, or destroys any animal or property in or on an animal facility with the intent to disrupt or damage the enterprise conducted at the animal facility and the damage or loss thereto exceeds five hundred dollars (\$ 500).
- c)
 - 1) A person commits an offense if, without the consent of the owner, the person damages or destroys an animal facility or damages, frees, or destroys any animal or property in or on an animal facility and the damage or loss thereto is five hundred dollars (\$ 500) or less, or enters or remains on an animal facility with the intent to disrupt or damage the enterprise conducted at the animal facility, and the person:
 - A) Had notice that the entry was forbidden;
 - B) Knew or should have known that the animal facility was or had closed to the public; or
 - C) Received notice to depart but failed to do so.
 - 2) For purposes of this subsection (c), “notice” means:
 - A) Oral or written communication by the owner or someone with actual or apparent authority to act for the owner;
 - B) The presence of fencing or other type of enclosure or barrier designed to exclude intruders or to contain animals; or

- C) A sign or signs posted on the property or at the entrance to the building, reasonably likely to come to the attention of intruders, indicating that entry is forbidden.
- 3) This part does not apply to, affect, or otherwise prohibit actions taken by the department of agriculture, any other federal, state, or local department or agency, or any official, employee or agent thereof while in the exercise or performance of any power or duty imposed by law or by rule and regulation.

§39-14-804. Penalties

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

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

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

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

- a) It is a defense to the application of §39-17-1307 [regarding when an unlawful possession or carrying of a weapon has taken place and what type of offense it is] if the possession or carrying was:
 - 4) Incident to lawful hunting, trapping, fishing, camping, sport shooting or other lawful activity;
 - 5) By a person possessing a rifle or shotgun while engaged in the lawful protection of livestock from predatory animals;
 - 6) By a Tennessee valley authority officer who holds a valid commission from the commissioner of safety pursuant to this part while such officer is in the performance of the officer's official duties;
 - 7) By a state, county or municipal judge or any federal judge or any federal or county magistrate;
 - 8) By a person possessing a club/baton who holds a valid state security officer/guard registration card as a private security officer/guard, issued by the commissioner, and who also has certification that such officer has had training in the use of club/baton which is valid and issued by a person certified to give training in the use of clubs/batons;
 - 9) By any person possessing a club/baton who holds a certificate that the person has had training in the use of a club/baton for self-defense which is valid and issued by a certified person authorized to give training in the use of clubs/batons, and is not prohibited from purchasing a firearm under any local, state or federal laws; or
 - 10) The defenses described in this section are not available to persons described in §39-17-1307(b)(1).

§40-13-104. Prosecutor not required

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

- 4) Upon a charge of gaming;
- 20) Upon an indictment for disturbing or obstructing a public officer in discharge of official duties;
- 21) Upon a charge for violating the game and fish laws;
- 25) Any other cases provided by law.

§40-35-118. Classification; offenses prior to November 1, 1989

For the purpose of determining the classification of felony offenses in Title 39 committed prior to November 1, 1989, the following classifications shall be used:

Code Section	Offense	Class
39-3-125	Stealing livestock	D
39-3-129	Receiving stolen livestock	D
39-3-102	Unlawful killing of horses, cattle, or sheep	E
39-3-105	Animal fighting other than cocks	E
39-3-913	Selling animal under false representation of pedigree	E

§41-1-102. Officers and employees; contraband; searches

d)

- 1) Periodic routine searches for contraband shall be made of all employees of the department prior to the entrance of such persons inside the confines of a state correctional facility. Such searches may be accomplished through the use of dogs trained to detect controlled substances, by the use of a magnetometer or similar device, by a pat-down search by a person of the same sex, and by an examination of the contents of pockets, bags, purses, packages or other containers. Such searches shall be conducted uniformly or by systematic random selection.

§41-1-118. Controlled substances; dogs

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

§42-1-110. Killing birds or animals

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

§43-8-102. Definitions

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

- 3) “Adulterated” means a condition wherein strength or purity of a pesticide falls below the professed standard of quality as expressed on labeling under which it is sold, or if any substance has been substituted wholly or in part for the pesticide, or if any valuable constituent thereof has been wholly or in part abstracted; . . .
- 12) “Pesticide” means any substance or mixture of substances or chemical intended for defoliating or desiccating plants or for preventing, destroying, repelling, or mitigating any insects, rodents, fungi, bacteria, weeds or other forms of plant or animal life the commissioner shall declare to be a pest. This includes, but is not limited to, insecticides, fungicides, bactericides, herbicides, desiccants, defoliant, plant regulators, adjuvants or nematocides;

§43-8-105. Alteration or destruction of labels; false guaranty; revealing formulas; endangering health and environment

13) It is unlawful:

- a. For any person to dispose of, discard or store any pesticide or pesticide containers in such a manner as to cause injury to man, vegetation, crops, livestock, wildlife, beneficial insects or to pollute any water supply or waterways.

§43-10-105. Brands, marks and labels; treated seeds

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

- 3) If the substance in the amount present with the seed is harmful to human or other vertebrate animals, a caution statement such as “Do not use for food, feed, or oil purposes.” The caution for mercurials and similarly toxic substances shall be a poison statement or symbol;

§43-11-404. Sales; toxic materials

No agricultural liming material shall be sold or offered for sale in this state which contains toxic materials in quantities injurious to plants or animals.

§43-33-126. Fish farming; hybrid striped bass

- a) Notwithstanding any other provision of law or proclamation to the contrary, any person, firm or corporation engaged in the business of fish farming may raise to maturity hybrid striped bass for the specific purpose of making the hybrid striped bass available for purchase by wholesalers, restaurants and members of the public. Such person, firm or corporation shall comply with the applicable rules of the Tennessee wildlife resources commission.

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

§44-2-101. Definitions

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

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

§44-2-102. Powers and duties

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

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

- 11) Cooperate with the government of the United States and may designate employees of USDA as agents of the department in carrying out the purposes of this chapter;
- 12) Call upon other law enforcement agencies for assistance when the public safety and welfare is threatened; and
- 13) File suit in a court of competent jurisdiction for the purpose of enjoining the further violation of the provisions of this chapter.

§44-2-103. Crimes and offenses

It is unlawful for any person to:

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

§44-2-104. Class A misdemeanors

A violation of this chapter is a Class A misdemeanor.

§44-2-105. Indemnification

The commissioner through rules and regulations may establish procedures for the payment of indemnities for animals destroyed under authority of this chapter.

Indemnity under this section is not intended to be a full reimbursement but a partial compensation based on, but not limited to, the value of the animal and the availability of funds for that purpose. Indemnification may be disallowed in cases where the owner is in violation of this chapter.

§44-2-106. Veterinarians

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

§44-2-401. Short title

This part shall be known as the “Tennessee Garbage Feeding Law.”

§44-2-402. Definitions

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

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

§44-2-403. Enforcement and administration

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

§44-2-404. Household garbage; processed garbage

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

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

§44-2-405. Rules and regulations

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

§44-2-406. Entry on premises

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

§44-2-407. Crimes and offenses

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

§44-2-408. Injunctions

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

§44-6-104. Licensure, requirements; application, fees, form

- a) Any person:
 - 1) Who manufactures a commercial feed within the state; or
 - 2) Who distributes a commercial feed in or into the state; or
 - 3) Whose name appears on the label of a commercial feed as guarantor shall obtain a license for each facility from which commercial feed is distributed in or into the state authorizing such person to manufacture or distribute commercial feed before engaging in such activity. Any person who makes only retail sales of commercial feed which bears labeling or other approved indication that the commercial feed is from a licensed manufacturer, guarantor, or distributor who has assumed full responsibility for the tonnage inspection fee due under this chapter is not required to obtain a license.
- b) Any person who is required to obtain a license shall submit an application on a form provided or approved by the commissioner, accompanied by a license fee of fifty dollars (\$50.00) per facility to be paid to the commissioner. Such license fee shall be applied to any inspection fees imposed pursuant to §44-6-109. The license year shall be the calendar year. Each license shall expire on December 31 of the year for which it is issued; provided, that any license shall be valid through February of the next ensuing year or until the issuance of the renewal license, whichever event first occurs, if the holder thereof has filed a renewal application with the commissioner on or before December 31 of the year for which the current license was issued. Any new applicant who fails to obtain a license within fifteen (15) working days of notification of the requirement to obtain a license, or any licensee who fails to comply with license renewal requirements, shall pay a twenty-five dollar (\$25.00) late fee in addition to the license fee.
- c) The form and content of the commercial feed license application shall be established by rules promulgated by the commissioner.
- d) The commissioner may request from a license applicant or licensee, at any time, copies of labels and labeling in order to determine compliance with the provisions of this section.
- e) The commissioner is empowered to refuse to issue a license to any person not in compliance with the provisions of this chapter and to cancel the license of any licensee subsequently found not to be in compliance with any provisions of this chapter; provided, that no license shall be refused or cancelled unless the applicant or licensee shall have been given an opportunity to be heard before the commissioner and to amend such applicant's or licensee's application in order to comply with the requirements of this chapter.

§44-6-105. Brands, marks and labels

A commercial feed shall be labeled as follows:

- 1) In case of a commercial feed, except a customer-formula feed, it shall be accompanied by a label bearing the following information:
 - A) The quantity statement;
 - B) The product name and the brand name, if any, under which the commercial feed is distributed;

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

§44-6-106. Misbranding

A commercial feed shall be deemed to be misbranded if:

- 1) Its labeling is false or misleading in any particular;
- 2) It is distributed under the name of another commercial feed;
- 3) It is not labeled as required in §44-6-105;
- 4) It purports to be or is represented as a commercial feed, or if it purports to contain or is represented as containing a commercial feed ingredient, unless such commercial feed or feed ingredient conforms to the definition, if any, prescribed by regulation by the commissioner; or
- 5) Any word, statement, or other information required by or under authority of this chapter to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or

devices in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

§44-6-107. Adulteration

A commercial feed shall be deemed to be adulterated if:

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

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

§44-6-108. Prohibited acts

The following acts and the causing thereof within the state of Tennessee are hereby prohibited:

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

§44-6-109. Inspection and inspectors, fees; licenses, conditions; tonnage reports

- a) An inspection fee at the rate of ten cents (10¢) per ton shall be paid on commercial feed manufactured in excess of five hundred (500) tons per licensed commercial feed facility per calendar year and distributed in this state; provided, that such inspection fees shall be applied against the annual license fee imposed by §44-6-104, and no additional inspection fees shall be paid until the inspection fees imposed on a licensed commercial feed facility exceed the amount of such annual license fee. Such inspection fee shall be paid by the commercial feed facility that distributes the commercial feed to the consumer, subject to the following:

- 1) No fee shall be paid on a commercial feed if the payment has been made by a previous distributor;
 - 2) No fee shall be paid on customer-formula feeds if the inspection fee is paid on the commercial feeds which are used as ingredients therein;
 - 3) No fee shall be paid on commercial feeds which are used as ingredients for the manufacture of commercial feeds which are registered. If the fee has already been paid, credit shall be given for such payment; and
 - 4) No fee shall be paid by contract feeders.
- b) All licenses shall be conditioned on the applicant agreeing to keep such records as may be necessary to indicate accurately the tonnage and kinds of commercial feeding stuffs sold, and as are satisfactory to the commissioner, and granting the commissioner, or the commissioner's duly authorized representative, permission to examine such records and verify the statement of tonnage. Failure to make an accurate statement of tonnage or to pay the inspection fee or to otherwise comply as provided herein shall constitute sufficient cause for the cancellation of the license.
 - c) The report shall be under oath, on forms furnished by the commissioner, and the reports shall be filed with the department of agriculture. The report of tonnage and inspection fee shall be due and payable semiannually, on January 31 and July 31, covering the tonnage of commercial feeding stuffs sold during the preceding six (6) months based on a calendar year. If the report is not filed and the inspection fee paid by the tenth day following the due date, or if the report is false, the commissioner shall revoke the license, and if the inspection fee is unpaid after the ten-day grace period, the amount due shall bear a penalty of ten percent (10%) which shall be added to the inspection fee due and shall constitute a debt and become the basis of judgment against the securities or bonds hereinafter referred to; provided, that no license shall be revoked until the licensee has first been given an opportunity to be heard before the commissioner in order to pay the fees required under this chapter.
 - d) Fees collected shall constitute a fund for the payment of the costs of inspection, sampling, and analysis, and other expenses necessary for the administration of this chapter.

§44-6-110. Rules and regulations

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

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

§44-6-111. Entry on property; inspections and inspectors; notice; samples

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

§44-6-112. Withdrawal from distribution orders; seizure; disposition

- a) When the commissioner or the commissioner's authorized agent has reasonable cause to believe any lot of commercial feed is being distributed in violation of any of the provisions of this chapter or of any of the prescribed regulations under this chapter, the commissioner or the commissioner's agent may issue and enforce a written or printed "withdrawal from distribution" order, warning the distributor not to dispose of the lot of commercial feed in any manner until written permission is given by the commissioner or the court. The commissioner shall release the lot of commercial feed so withdrawn when such provisions and regulations have been complied with. If compliance is not obtained within thirty (30) days, the commissioner may begin, or upon request of the distributor or registrant shall begin, proceedings for condemnation.
- b) Any lot of commercial feed not in compliance with such provisions and regulations shall be subject to seizure on complaint of the commissioner to a court of competent jurisdiction in the area in which the commercial feed is located. In the event the court finds the commercial feed to be in violation of this chapter and orders the condemnation of the commercial feed, it shall be disposed of in any manner consistent with the quality of the commercial feed and the laws of the state; provided, that in no instance shall the disposition of the commercial feed be ordered by the court without first giving the claimant an opportunity to apply to the court for release of the commercial feed or for permission to process or relabel the commercial feed to bring it into compliance with this chapter.

§44-6-113. Crimes and offenses; injunctions; appeal and review

- a) Any person convicted of violating any of the provisions of this chapter or who impedes, hinders or otherwise prevents, or attempts to prevent, the commissioner or the commissioner's duly authorized agent in performance of such official's duty in connection with the provisions of this chapter commits a Class C misdemeanor. In all prosecutions under this chapter involving the composition of a lot of commercial feed, a certified copy of the official analysis signed by the commissioner or the commissioner's authorized agent shall be accepted as prima facie evidence of the composition.
- b) Nothing in this chapter shall be construed as requiring the commissioner or the commissioner's representative to:
 - 1) Report for prosecution;
 - 2) Institute seizure proceedings; or
 - 3) Issue a withdrawal from distribution order, as a result of minor violations of this chapter, or when such official believes the public interest will best be served by suitable notice of warning in writing.
- c) The commissioner is hereby authorized to apply for, and the court to grant, a temporary or permanent injunction restraining any person from violating or continuing to violate any of the provisions of this chapter or any rule or regulation promulgated under this chapter, notwithstanding the existence of other remedies at law. Such injunction is to be issued without bond.
- d) Any person adversely affected by an act, order or ruling made pursuant to the provisions of this chapter may within forty-five (45) days thereafter bring action in

the chancery court of Davidson County, or the chancery court in the county of the residence or principal place of business of the party adversely affected, for judicial review of such actions. The form of the proceeding shall be any which may be provided by statutes of this state to review decisions of administrative agencies, or in the absence or inadequacy thereof, any applicable form of legal action, including actions for declaratory judgments or writs of prohibitory or mandatory injunctions.

§44-6-114. Cooperation

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

§44-6-115. Publication

The commissioner shall publish at least annually, in such forms as the commissioner may deem proper, information concerning the sales of commercial feeds, together with such data on their production and use as the commissioner may consider advisable, and a report of the results of the analyses of official samples of commercial feeds sold within the state as compared with the analyses guaranteed in the registration and on the label; provided, that the information concerning production and use of commercial feed shall not disclose the operations of any single person or company.

§44-7-101. Animals running at large

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

§44-7-102. Records and recordation

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

§44-7-103. Priorities and preferences

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

§44-7-104. Horses; cattle

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

§44-7-105. Disputes; entries on book of county clerk

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

§44-7-106. Neat cattle

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

§44-7-107. Altering or defacing marks - Forfeiture

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

§44-7-108. Misbranding or mismarking; penalties

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

§44-7-109. Records and recordation; inspection and inspectors

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

§44-7-110. Stockyards, slaughterhouses and packinghouses; records and recordation

- a) Every stockyard, slaughterhouse, and packing house licensed to do business under the laws of this state shall maintain for sixty (60) days on file a record of all visible brands on livestock handled or processed on their premises. The list shall be updated every sixty (60) days and inspection shall be made available to persons doing business with those establishments.
- b) In the event brands are unreadable, the stockyard, slaughterhouse, or packing house will record the brand to the best of its ability with a statement declaring the condition of the brand.
- c) Failure to comply with the provisions of this section is a Class A misdemeanor.

§44-7-201. Definitions

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

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

6) "Person" means any individual, partnership, corporation or association.

§44-7-202. Applications; fees; transfers

- a) Any owner who uses a brand to identify cattle, hogs, sheep, goats, horses, and other animals belonging to such owner must register the owner's brand by applying to the department for such registration.
- b) The application shall be made on forms prescribed and furnished by the department and shall be accompanied by a fee of ten dollars (\$10.00), and a facsimile of the brand to be registered shall also accompany the application.
- c) All fees collected hereunder for registration, transfer, and reregistration of brands shall be credited to the department and kept in a separate account for the purpose of defraying the cost of administering this part.
- d) If the brand described in the application closely resembles another registered brand previously registered by another owner, the commissioner may reject the application for registration, but in the event the brand does not closely resemble another brand previously registered, the commissioner shall issue to the applicant a certificate of registration.
- e) In the event the department denies registration of a brand, for any reason, the registration fee of ten dollars (\$10.00) shall be returned to the applicant.
- f) A person having a brand duly registered with the department may transfer the brand to another by notifying the department of the transfer and giving the date of transfer and the name of the transferee. Upon receipt of the notice, and a transfer fee of one dollar (\$1.00), the transfer of the registration shall be noted in the register of brands showing that the brand has been transferred and giving the name of the transferee. The transferred brand shall not be used by the new owner until the department notifies the transferee that the transfer has been noted on its register.

§44-7-203. Copies of certificates; evidence of registration

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

§44-7-204. Reregistration; fees

Every five (5) years, all brands shall be reregistered with the department. At least ninety (90) days prior to the date for reregistration of all brands, the department shall notify all persons having brands registered as to the date by which the brand must be reregistered. On or before the reregistration date, the person in whose name the brand is registered shall pay to the department a reregistration fee of two dollars (\$2.00), and shall furnish such additional information as the department may require on forms furnished by the department. If any person having a registered brand fails to reregister the brand in such person's name, the brand shall be forfeited and shall be available for registration in the name of another person.

§44-7-205. Registers; publication

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

§44-7-206. Registers; inspections and inspectors

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

§44-7-207. Rules and regulations

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

§44-7-208. Prohibited acts

It is unlawful for:

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

§44-7-209. Crimes and offenses

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

§44-7-301. Pedigrees; records and recordation; fees

The pedigree of any jack or bull, claimed to be pedigreed livestock and used for public breeding, shall be filed and registered with the county clerk, under oath that the same is genuine, and the county clerk shall record the pedigree in a well-bound book to be kept in county clerk's office for that purpose, and the county clerk shall be allowed the sum of fifty cents (50¢) as fee for filing, recording, and making three (3) certified copies of the pedigree aforementioned.

§44-7-302. Pedigrees; posting

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

§44-7-303. False or fraudulent pedigrees

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

§44-8-101. Land in cultivation

Every planter shall make and keep a sufficient fence, of ordinarily sound and substantial material, around the planter's land in cultivation, and so close, for at least two and one-half feet (2 ½') from the surface of the earth, as to prevent hogs large enough to do damage from passing through the same.

§44-8-102. Materials; sufficient fencing

- a) The following types of fence are deemed sufficient:
- 1) STONE.--A substantial stone fence or wall, three and one-half feet (3 ½') high;
 - 2) PLANK AND POST AND RAIL.--A post and plank or post and rail fence four feet (4') high;
 - 3) RAIL.--A common worm or crooked rail fence five feet (5') high;
 - 4) BANK.--Every bank or other means used as a fence, or part of a fence, equivalent, as an obstruction to stock, to either of the three (3) classes of fence above named;
 - 5) WIRE.--Any enclosure made by nailing fast two (2) sound planks, each not less than six inches (6") wide, to posts set firmly in the ground not more than eight feet (8') apart, the bottom plank to be not more than three inches (3") from the ground, and the second plank from the ground not more than four inches (4") from the first; and then by stretching not less than four (4) strands of barbed wire tightly between the posts above the planks, the topmost wire to be not less than four and one-half feet (4 ½') from the ground, and the bottom wire to be four inches (4") from the topmost plank; the next wire from the bottom one to be nine inches (9") from the topmost plank, and the third wire from the bottom to be twenty-one inches (21") from the topmost plank, the above distance as nearly as practicable;
 - 6) OSAGE ORANGE.--Bois d'arc or Osage orange fences, wholly of bois d'arc or Osage orange, or in part of bois d'arc or Osage orange, and in part of wire or other material, at least four feet (4') high, and at least eighteen inches (18") across the top and sufficiently close to prevent stock of all kinds from passing through; and
 - 7) WIRE.--Any enclosure made by nine (9) smooth, horizontal wires, the bottom and top or first and ninth of which are to be standard number nine (9), and the other seven (7) standard number eleven (11) wires; the first wire to be placed upon or very near the ground; the second three and one-half inches (3 ½") from the first; the third three and one-half inches (3 ½") from the second; the fourth four inches (4") from the third; the fifth four inches (4") from the fourth; the sixth six inches (6") from the fifth; the seventh eight inches (8") from the sixth; the eighth ten inches (10") from the seventh; the ninth ten inches (10") from the eighth. The vertical stays or pickets are to be two feet (2') apart between the first or ground wire and the fifth, and from the fifth to the top or ninth wire four feet (4') apart.

- The posts are to be one (1) rod apart and well stayed at the ends of the fence, so as to keep the fence from sagging.
- b) In addition to subsection (a), sufficient fencing shall include:
 - 1) A fence constructed from synthetic materials commonly sold for fencing, if such materials are installed pursuant to generally acceptable standards, to confine or restrict the movement of farm animals; and
 - 2) Systems or devices based on technology generally accepted as appropriate for the confinement or restriction of farm animals.
 - c) The commissioner of agriculture may adopt rules and regulations regarding sufficient fencing consistent with this part to provide greater specificity as to the requirements of sufficient fencing. The absence of any such rule or regulation shall not affect the validity or applicability of this section or any section of this part as such sections relate to what constitutes sufficient fencing.

§44-8-103. Horses, cattle and mules; sufficient fencing

The following shall be sufficient and be deemed a lawful fence only as to horses, cattle, and mules: any enclosure made by stretching not less than five (5) strands of barbed wire tightly between posts firmly set in the ground, or between growing trees and posts firmly set in the ground, not more than twenty feet (20') apart; the topmost wire not less than four and one-half feet (4 ½') from the ground, the bottom wire not less than six inches (6"), and the next to the bottom wire not less than fifteen inches (15") from the ground.

§44-8-104. Paling and wire fences

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

§44-8-105. Three wire, plank or slat fences

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

§44-8-106. Trespass of animals; damages

- a) When any trespass shall have been committed by horses, cattle, hogs, goats, sheep, or other stock upon the cleared and cultivated ground of any person having the same fenced, as is described in §§44-8-101 - 44-8-105, the person may complain to a judge of the court of general sessions of the county, who shall cause two (2) discreet and

impartial freeholders to be summoned, and with them shall view and examine, on oath of the freeholders to do justice, whether the complainant's fence be a lawful fence, and what damage, if any, the person has sustained by the trespass, and certify the result of such view and examination under the hands and seals of the judge and freeholders, which certificate the judge shall deliver to the complainant. The certificate shall be prima facie evidence of the plaintiff's demand.

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

§44-8-107. Insufficient fences

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

§44-8-109. Notoriously mischievous stock; confinement upon premises

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

§44-8-110. Notoriously mischievous stock; damages

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

§44-8-111. Executions

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

§44-8-112. Pulling down fences; opening gates

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

§44-8-201. Definition

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

§44-8-202. Erection and repair at joint expense

Partition fences may be erected and repaired at the expense, jointly, of the occupants or owners; or if a person makes a fence a partition fence, by joining to it or using it as such, such person shall pay to the person erecting it such person's proportion of the expense.

§44-8-203. Refusal or neglect to keep fence in good repair; damages

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

§44-8-204. Erecting or repairing fences; payments; freeholders

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

§44-8-205. Freeholders; oaths and affirmations; examinations and reports

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

§44-8-206. Rebuilding or repairing fences

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

§44-8-207. Fees

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

§44-8-208. Removal; notice

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

§44-8-209. Removal without notice; crimes and offenses

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

§44-8-210. Erection or maintenance of partition fence; disclaimer

- a) In cases when the property on one (1) side of an existing or proposed partition fence is agricultural land, and the property on the other side is non-agricultural land, the owner of the non-agricultural land may disclaim any responsibility for the erection or maintenance of a partition fence pursuant to §44-8-202. Such disclaimer shall be in writing, executed by the non- agricultural land owner and mailed to the owner of the agricultural land by registered mail, return receipt requested, or sent by some other means pursuant to which a written verification of receipt is obtained. The disclaimer shall be effective on the date of receipt by the owner of the agricultural land.
- b) Delivery of the disclaimer as described in subsection (a) shall have the effect of:
 - 1) Relieving the owner of the non-agricultural land of any responsibility to erect or maintain a partition fence pursuant to §44-8-202; and
 - 2) Releasing the owner of the agricultural land from any claims by the owner of the non-agricultural land arising out of the non-existence or condition of a partition fence.
- c) As used in this section, unless the context otherwise requires:
 - 1) “Agricultural land” has the same meaning as set forth in §67-5-1004; and
 - 2) “Non-agricultural land” means land:
 - A) That is not agricultural land;
 - B) That is the site of a residence; and
 - C) On which the owner does not keep livestock.
- d)
 - 1) If property that meets the definition of non-agricultural land at the time of delivery of a disclaimer as described in subsection (a) subsequently ceases to qualify as non-agricultural land, then the disclaimer, and all effects of the disclaimer as described in subsection (b), shall cease to be effective as of the date property ceases to be non-agricultural property.
 - 2) If a fence is erected by the owner of agricultural land during a period when a disclaimer as described in subsection (a) is in effect, and if the land owned by the disclaiming party subsequently ceases to be qualified as non- agricultural land, then the owner of the non-agricultural land shall reimburse the owner of the agricultural land a proportionate share of the cost of erecting the fence. If the parties cannot agree as to the amount to be paid to the owner of the agricultural land, the process described in §44-8-204 shall be applicable.

§44-8-301. Damages for failure to keep and maintain common fences

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

owner's own stock or that of the owner's tenants trespassing beyond the owner's own land within the common enclosure.

§44-8-302. Agreements

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

§44-8-303. Agreements; rescission; modification or amendment

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

§44-8-304. Agreements; acknowledgment and registration

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

§44-8-305. Damages caused by trespassing stock

Any person not a party to such agreement, whose stock shall trespass upon the common enclosure, shall be liable to the party injured for all damages which such person may thereby sustain, and such party, so damaged, shall have all the rights and liens given by law to persons damaged by stock trespassing upon enclosures which are not common; provided, the common enclosure be at the time a lawful enclosure or fence.

§44-8-401. Crimes and offenses

- a) It is unlawful for the owners of any livestock, as the same are commonly known and defined, to willfully allow the same to run at large in this state.
- b) A violation of this section is a Class C misdemeanor.

§44-8-402. Damages; liens and incumbrances

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

§44-8-403. Stallions or jackasses; fines and penalties

No person shall suffer any stallion or jackass over fifteen (15) months old to run at large, under fine of not less than five dollars (\$5.00) nor more than twenty-five dollars (\$25.00), the fine to be paid into the county treasury.

§44-8-404. General Sessions Court; advertisements

Such animal running at large may be brought before a judge of the court of general sessions of the county, who shall cause the same to be advertised, with a description of its marks, color, size, and age, and the name and residence of the taker-up, in three (3) public places in the county, one (1) of them being the courthouse door.

§44-8-405. Gelding unclaimed animals

If such animal is not claimed within three (3) months after being taken up, and the fees and expenses paid as herein provided, the court may order the animal to be gelded by some person competent to perform the operation, at the risk and expense of the owner.

§44-8-406. Unknown or nonresident owners; strays

If the owner is unknown, or resides out of the county, the same course shall be pursued by the taker-up in regard to such animals as in the case of other estrays.

§44-8-407. Taker-up; compensation and salaries

The taker-up is entitled to receive five dollars (\$5.00) from the owner, and a reasonable compensation for keeping, to be determined as in the case of estrays, and the court to receive one dollar (\$1.00).

§44-8-408. Dogs

It is unlawful for any person to allow a dog belonging to or under the control of such person, or that may be habitually found on premises occupied by the person, or immediately under the control of such person, to go upon the premises of another, or upon a highway or upon a public road or street; provided, that this section and §44-8-409 shall not apply to a dog on a hunt or chase, or on the way to or from a hunt or chase, nor to a dog guarding or driving stock, or on the way for that purpose, nor to a dog being moved from one (1) place to another, by a person owning or controlling a dog; provided, that the foregoing exemptions shall not apply unless all damages done by dogs therein exempted, to the person or property of another, shall be paid or tendered to the person so damaged, or to the person's agent, within thirty (30) days after the damage is done.

§44-8-409. Crimes and offenses

A violation of §44-8-408 is a Class C misdemeanor.

§44-8-410. Female dogs; confinement while proud

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

§44-8-411. Crippling, killing or destroying proud female dog; damages

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

§44-8-412. Crimes and offenses

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

§44-10-101. Licenses and permits; applications; fees; list of licensees

- a)
- 1) Any person, firm or corporation desiring to engage in dealing or trading in poultry, fowl, livestock or other animals, either dead or alive, shall obtain a license from the county clerk of the county in which such person desires to open a place of business for such purpose, and shall state in the application the name of the applicant:
 - A) If a firm, the names of the members of the firm; and
 - B) If a corporation, the names of the officers and board of directors of the corporation.
 - 2) The application shall show each place of business where business will be transacted, and separate licenses shall be obtained for each establishment in which such business is conducted.
 - 3) The applicant shall pay for such license when issued the sum of one dollar (\$1.00).
- b) This license fee shall not apply to merchants doing a general merchandise business on which tax has been paid.
- c) The county clerk in each county shall furnish to the department of agriculture at the end of each month a complete list of all licenses issued under §§44-10-101 - 44-10-105, including the name, address of place of business and license number.

§44-10-102. Applicability of law

For the purpose of §§44-10-101 - 44-10-105, every person who buys live market poultry, dead or dressed fowl, livestock, either dead, alive or dressed, and/or other animals of market value, shall be deemed to be in business, requiring application and license under §§44-10-101 - 44-10-105; however, §§44-10-101 - 44-10-105 shall not be construed to include the following:

- 1) Railroads transporting livestock or poultry, either intrastate or interstate;
- 2) Persons, associations, copartnerships or corporations who or which, by dispersal sale, are permanently discontinuing the business of farming, dairying, breeding, raising or feeding livestock or poultry;
- 3) Persons, associations, copartnerships or corporations that sell livestock or poultry which has been raised on the premises of such persons, associations, copartnerships or corporations; and

- 4) Persons, associations, copartnerships or corporations buying poultry or livestock only from a licensee under §§44-10-101 - 44-10-105. Such license when so issued shall be prominently displayed in each of the places of business of the dealers obtaining same.

§44-10-103. Records and recordation; inspection and inspectors

- a) Each person, firm or corporation engaged in the business set out and defined in §§44-10-101 and 44-10-102, in addition to obtaining the license required in §44-10-101, shall keep on file for six (6) months at the place of business where purchases are made, a legible record of all of the poultry, livestock or other animals, whether dead or alive, purchased and/or received by such person, firm or corporation, showing the date each purchase of such fowl or animals was made, the number and weight thereof, and the price paid therefor; and also a description of the fowl or animals purchased and the name of the seller from whom purchased as hereinafter provided:
- 1) Name or identity of seller:
 - A) Where the seller is personally known to purchaser as a reputable and reliable citizen, the seller's name is sufficient on the record; and
 - B) Where the seller is not known personally to the purchaser or is known to be of doubtful character, the seller's name, address, a brief description of the seller, and a description of the type of conveyance, including license number if by automobile, in which livestock or fowl was brought to purchaser, shall be included in the record;
 - 2) Description of fowl or animals:
 - A) Where the seller comes under subdivision (1)(A), the record shall include a brief description of animals or fowl purchased; and
 - B) Where the seller comes under subdivision (1)(B), the record shall include the breed, description and note of any distinguishing marks of fowl and animals purchased.
- b) The record herein required shall be at all times available to the inspection of the police of the city in which such dealer is located, and the sheriff or constable of the county in which the dealer is located and does business, to whom such dealers shall, upon demand, give any information in the dealer's possession with reference to such purchase by the purchaser.

§44-10-104. Crimes and offenses; revocation of license

Any person, firm or corporation:

- 1) Who engages in the business of dealing or trading in poultry, livestock or other animals, either dead or alive, without a license; or
- 2)
 - A) Who fails to keep the records required by §§44-10-101 - 44-10- 105;
 - B) Who fails to make same available to the officers and police officials of the counties and cities as herein required;
 - C) Who causes to be entered, upon any such record kept by such person, firm or corporation, any fictitious name, address or other data; or
 - D) Who otherwise violates any of the provisions of §§44-10-101 - 44- 10-105; commits a Class C misdemeanor, and upon such conviction, the offender's

license may at the same time be revoked by the court hearing the cause, for the remainder of the year for which it was issued.

§44-10-105. Licenses and permits; moral turpitude

No license shall be issued to any person convicted of an offense involving moral turpitude.

§44-10-106. Butchers and persons conducting slaughter pens; records and recordation; inspection and inspectors

All butchers and other persons conducting a slaughter pen, where cattle are slaughtered, shall keep a book in which shall be kept the name and post office address of all persons from whom they purchase cattle, together with a description of all cattle bought, giving the earmarks, color, and as minute a description of each animal purchased as it shall be possible to give in a brief form. Such book shall be kept open for inspection, and all persons shall have a right to inspect the book whenever application is made to do so; provided, that this section and §44-10-107 does not apply to butchers or other persons purchasing from foreign dealers in droves, or delivered in cars.

§44-10-107. Crimes and offenses

A violation of §44-10-106 is a Class C misdemeanor.

§44-10-108. Hides; purchases from unknown persons; records and recordation

It is unlawful for any person dealing in hides to purchase of any unknown person the hides or skins of cattle, cows, horses, mules, goats, sheep, or any other domestic animals, without having such unknown person identified by some reliable person known to the buyer, unless such dealer in hides shall keep in a book a record describing each hide, giving color and flesh marks and weight, together with the name and place of residence of such person selling such hides, also the name of the person from whom the seller procured same; provided, that nothing in this section applies to wholesale trade in dry hides.

§44-10-109. Crimes and offenses

A violation of §44-10-108 is a Class C misdemeanor.

§44-10-201. Short title

This part shall be known as the “Tennessee Livestock Dealer Act.”

§44-10-202. Definitions

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

- 1) “Commissioner” means the commissioner of agriculture or the commissioner’s appointed agent;
- 2) “Livestock” means cattle, swine, sheep, or goats;
- 3) “Livestock dealer” means any person who buys, receives or assembles livestock for resale, either for such person’s own account or that of another person;

- 4) "Livestock producer" means any person who sells only livestock which that person has raised or which that person has owned and had in possession for a minimum of sixty (60) days; and
- 5) "Person" means an individual, partnership, corporation, association, or other legal entity.

§44-10-203. Licenses and permits; fees

Any persons doing business as a livestock dealer must secure an annual license from the commissioner. Application for such annual license shall be made on forms provided by the commissioner. A fee of twenty-five dollars (\$25.00) shall accompany any such application for initial issuance or renewals. Such fees so received are not returnable and shall be kept in a special fund for the administration of this part. Upon a determination that the applicant is qualified, the commissioner shall issue a license to such applicant and all such annual licenses shall terminate and become void each successive June 30.

§44-10-204. Powers and duties of commissioner

The commissioner has the power and duty to:

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

§44-10-205. Suspension or revocation of license; subpoenas; appeal and review

- a) In the event the commissioner has reason to believe a licensee is guilty of violating any of the provisions of this part, including the rules and regulations promulgated hereunder, the commissioner shall conduct a hearing to determine if the license shall be suspended or revoked. A ten-day notice shall be given and the hearing conducted at Ellington Agricultural Center, Nashville.
- b) The commissioner has the power to subpoena any persons or record incident to the hearing, and a charge of contumacy may be filed for those who refuse to comply; and the commissioner may administer oaths to those giving evidence. A court reporter shall be in attendance.
- c) Following the hearing, the commissioner may:
 - 1) Permanently revoke the license;
 - 2) Temporarily revoke the license; or
 - 3) Suspend the license for a definite period of time.
- d) The action of the commissioner may be reviewed by common law writ of certiorari to the chancery or circuit court of the county of the licensee who is the subject of the commissioner's action, and the petition shall be filed within ten (10) days from the date of the commissioner's order. Upon the grant of the writ of certiorari, the commissioner shall certify to the court a complete transcript of the proceedings instituted before the commissioner. This certified transcript shall constitute the whole record, and no additional proof or evidence shall be considered by the chancery court of Davidson County.

- e) The decision of the commissioner shall remain final until modified by the commissioner or by the courts.

§44-10-206. Prohibited acts

The following actions are prohibited:

- 1) Any person acting as a livestock dealer without a valid license issued by the commissioner;
- 2) Failure to maintain records as required by the commissioner, especially the names and addresses of sellers and buyers of livestock;
- 3) Failure to provide access to all records required of such licensee by the commissioner;
- 4) Buying or selling livestock under an assumed name or address. All livestock sales shall be evidenced by a written bona fide name and address of buyer and seller; and
- 5) Violation of any valid rule, regulation or statute governing livestock disease control.

§44-10-207. Applicability of part

This part shall not apply to livestock producers or persons holding a valid license under chapter 11 of this title. Neither shall this part apply to any farmer who may occasionally buy or sell livestock in connection with such person's farming operations and who is not primarily engaged in the business of buying and selling livestock, as determined by the commissioner.

§44-10-208. Crimes and offenses

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

§44-10-209. Injunctions

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

§44-11-101. Definitions

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

- 1) "Commissioner" means the commissioner of agriculture;
- 2) "Community sale" means any sale or exchange of livestock held by any person at an established place of business or premises where the livestock is assembled for sale or exchange and is sold or exchanged at auction, or upon a commission basis, or at a private sale, at regular or irregular intervals but more frequently than three (3) times a year; provided, that "community sale" does not apply to established public stockyards whose federal veterinary inspection is maintained, or to farm or purebred livestock sales;

- 3) "Consignor" means any person consigning, shipping, or delivering livestock to a community sale for sale, resale, or exchange;
- 4) "Department" means the department of agriculture;
- 5) "Livestock" means cattle, swine, sheep, goats, horses, mules, and poultry;
- 6) "Official vaccinate" means a bovine animal vaccinated against brucellosis from four (4) through eight (8) months of age, under the supervision of a federal or state veterinary official, with a vaccine approved by the commissioner, permanently identified as such a vaccinate, and reported at the time of vaccination to the appropriate state or federal agency cooperating in the eradication of brucellosis;
- 7) "Operator" means any person holding, conducting or carrying on a community sale;
- 8) "Person" means any person, firm, or corporation; and
- 9) "Representative" means an employee of the commissioner.

§44-11-102. Licenses and permits; applications

- a) No person shall hold, operate, conduct, or carry on a community sale in this state without first securing a license therefore from the department.
- b) The application for such license shall be on forms prescribed and furnished by the department, and shall set forth:
 - 1) The name and address of the community sale yard and the name of the operator of the yard;
 - 2) The location of the establishment or premises where the community sale is to be conducted;
 - 3) The types or kinds of livestock to be handled, sold or exchanged;
 - 4) A description of the facilities to be used in conducting such community sales; and
 - 5) Such other information as the department may require.
- c) All applications shall be accompanied by a bond and the fee hereinafter required.

§44-11-103. Bonds; actions and proceedings; deposits in trust

- a)
 - 1) Each applicant for a license to operate and conduct a community sale shall file a bond with the department.
 - 2) Such bond shall be in the principal amount of ten thousand dollars (\$10,000); provided, that if the commissioner is of the opinion that the volume of business and the nature of the operation is such as to render a bond of ten thousand dollars (\$10,000) inadequate, then the commissioner, after reasonable notice to the operator of such community sale, may require that the amount of the bond be increased, but such amount shall not exceed the average gross receipts for livestock sold through such community sale at the several sales held during the preceding twelve (12) months, or during the period for which the community sale has been operated if it has been operated for less than twelve (12) months; and provided further, that in no event such bonds exceed twenty-five thousand dollars (\$25,000).

- 3) The bonds shall be conditioned for the prompt remittance to consignors of the proceeds from any sale or exchange of livestock, or damage caused a purchaser or the general public as provided in this chapter.
- b) Such aggrieved persons are hereby authorized to bring suits for the breach of the condition of such bonds in the courts of record.
- c) The bond shall be executed by a corporate surety and shall not be cancelled without thirty (30) days' written notice to the department.
 - 1) In lieu of filing such bond, the operator of a community sale may deliver to the department the receipt of a duly authorized bank or trust company in this state showing the deposit in trust with the bank or trust company of cash or other securities endorsed in blank by the owner thereof, and of a market value at least to an amount equal to the amount of any bond which would have been required if a bond had been submitted. The cash or securities shall be deposited in trust, and the trust agreement shall be conditioned as in the case of bonds, and an action for recovery against such deposit or securities may be brought in the same manner as in the case of an action for recovery on a bond filed hereunder.
- d) Any receipt shall be accompanied by certificates from clerks of the courts of the county and the county register that there are no unsatisfied judgments against the operator of such community sale of record in the respective courts or in the office of the register of the county.
- e) The trust agreement shall not be terminated and the funds and securities in the trust shall not be paid out nor disbursed from the trust except upon the final order, judgment, or decree of a court, or the written approval of the commissioner in the settlement of a claim against the operator.
- f) The commissioner is hereby authorized to dispense with the foregoing bonding provisions where a similar bond has been executed pursuant to any federal law, and if the commissioner finds such bond to be acceptable, it may be treated by the commissioner as a compliance with this section.

§44-11-104. Issuance of licenses

- a) The fee for a license to operate a community sale shall be one hundred dollars (\$100) per annum.
- b) Upon receipt of an application for a license hereunder, accompanied by the required bond and license fee, the department shall examine the same and if it finds such application to be in proper form and that the applicant has otherwise complied with this chapter, the department shall grant the license as applied for, subject to the provisions of this chapter.

§44-11-105. Licenses and permits; contents; renewal

- a) Licenses shall be in such form as the department may prescribe, and shall be under the seal of the department, and shall set forth:
 - 1) The name and address of the community sale yard, and the name of the operator of the yard;
 - 2) The location of the establishment or premises licensed;
 - 3) The kinds of livestock to be sold, exchanged, or handled;
 - 4) The period of the license; and

- 5) Such other information as the department may determine.
- b) A separate license shall be required for each establishment or premises where a community sale is operated or conducted. The original, or a certified copy of the license hereunder, shall be conspicuously displayed by the licensee in the sale ring or some other like prominent place in the establishment or premises licensed.
- c) Licenses shall be renewed annually upon like application and procedure as in the case of the original license.

§44-11-106. Licenses and permits; suspension or revocation; declining to grant or renew; grounds; hearings

- a) The commissioner may decline to grant or to renew a license, or may suspend or revoke a license upon the following grounds:
 - 1) The licensee has violated any provision of this chapter or any rule, order, or regulation issued under this chapter;
 - 2) The licensee has knowingly received on consignment or sold or exchanged stolen livestock or mortgaged livestock without authority from the owner or mortgagee;
 - 3) The licensee has been guilty of misrepresentation, deception, or fraud in any material particular in securing the license;
 - 4) The licensee has failed to keep records as required by this chapter;
 - 5) The licensee has failed to practice measures of sanitation and has failed to provide for the adequate yarding, housing, holding, and feeding of livestock;
 - 6) The licensee, in the case of livestock weighed on the licensee's scales and sold by weight, has knowingly quoted incorrect weights or has failed to have his scales regularly inspected and tested;
 - 7) The licensee has failed to post a bond or give other security as required herein; or
 - 8) The licensee has engaged in any illegal activity on the premises where the community sale is located, the business violates the zoning regulations of any county, municipal, or regional planning commission, or the licensee has failed to comply with such rules and regulations as have been duly adopted in accordance with this chapter.
- b) When any of the foregoing have not been fully complied with, or if there has been a violation of this chapter, the commissioner may give notice to the applicant for a license, or a holder of a license, that the commissioner will conduct a hearing for the purpose of determining whether the commissioner should decline to grant, renew, or suspend or revoke a license. No hearing shall be held without giving the applicant or the holder of a license at least ten (10) days' written notice thereof. The hearings shall be conducted at the time and place designated by the commissioner, and the applicant or the holder of a license shall be entitled to be represented by counsel at such hearings. The findings of the commissioner shall be final, and may be reviewed in the chancery court of Davidson County, by the common law writ of certiorari. When zoning is the question involved, the commissioner shall notify the applicant or holder of the license of such violation, and the applicant or holder shall then have only the rights granted in the zoning ordinance or regulation relative to a hearing and appeal, and shall prosecute the application for a hearing and appeal solely under the particular local zoning ordinance or regulation.

§44-11-107. Supervision of sales; diseases; quarantines

- a) Each community sale shall be under the direct supervision of a representative of the department. Except as otherwise provided in this chapter, no livestock known to be infected with or known to have been exposed to any contagious, infectious or communicable animal disease or infestation shall be consigned to or sold through any community sale. The representative shall inspect all livestock that is offered for sale and shall prohibit the movement of any animals which in the representative's opinion are diseased or which are likely to be carriers of disease, until final inspection is made by a qualified, accredited veterinarian, as to their condition. If, upon such examination, an infectious, contagious or communicable disease or infestation is found, such animals may be sold only for immediate slaughter to a recognized slaughterer where veterinary inspection is maintained; or, the owner may, upon submission of an affidavit of ownership for at least sixty (60) days prior to sale date, return them to the original premises, where a strict quarantine must be maintained. The representative shall also issue or cause to be issued all necessary quarantines for such animals as are sold for immediate slaughter or are returned to the original premises. A copy of the quarantine shall be sent to the state veterinarian immediately following issuance, and instructions given the owner that the truck moving the quarantined animals to slaughter or returning them to the original premises must be cleaned and disinfected before being used again to transport livestock. The representative shall supervise the cleaning and disinfecting of the yards and pens at such time as may be necessary, using only those disinfectants approved by the animal disease eradication branch of the agricultural research service of the United States department of agriculture.
- b) Except as otherwise provided in this chapter, no female cattle or bulls more than eight (8) months of age shall be removed from the premises where the community sale is conducted, except for immediate slaughter within ten (10) days, unless such cattle either:
- 1) Have been tested for brucellosis and found negative within thirty (30) days prior to date of sale, and are accompanied by a certificate of health showing the results such test;
 - 2) Are under thirty (30) months of age and were officially vaccinated against brucellosis with vaccine approved by the commissioner at not less than four (4) months nor more than eight (8) months of age, are positively identified and are accompanied by an official certificate of vaccination or have the official calfhood vaccination tattoo in the ear; or
 - 3) Are in a certified brucellosis-free herd at the time of the sale, and are accompanied by an official certificate of health so certifying.
- Cattle that do not come within the above classifications must be tested and found negative to a brucellosis test before being released from the community sale yard. The owner may, upon submission of an affidavit of ownership for at least sixty (60) days prior to sale date, return the cattle to the original premises, and the entire herd placed under quarantine until tested for brucellosis.
- c) All female cattle are classed as breeding cattle, and as such must comply with the requirements governing breeding cattle.

- d) Community sales handling livestock during inclement weather shall be equipped with facilities for housing the livestock during such inclement weather. If livestock is held on the premises for more than ten (10) hours, then facilities for feeding and watering the livestock so held shall be provided.
- e) In case any community sale shall sell livestock by weight, the scales upon which such livestock is weighed shall be regularly inspected and tested.

§44-11-108. Records and recordation; inspections and inspectors

- a) Each operator of a community sale shall keep the following records for each lot of livestock consigned to or sold through such community sale, namely:
 - 1) The name and address of the consignor;
 - 2) A description of the livestock, which may be by tag number, marking, or weight;
 - 3) The name and address of the purchaser of the livestock; and
 - 4) The price for which the livestock was sold or exchanged and the commission or other fees charged by the community sale, including such inspection fees as are required hereunder.
- b) Such records shall be kept by the operator of a community sale at the establishment or premises where the sale is held and conducted or such other convenient place as may be approved by the department. They shall be open for inspection by all officers or inspectors charged with the enforcement of this law, and they shall be preserved and retained for a period of at least two (2) years.

§44-11-109. Sales on public property near licensed premises

It is unlawful to sell, or offer to sell, to buy, or offer to buy, livestock on any public property located within two thousand feet (2,000') of the premises where licensed community sales are held.

§44-11-110. Administration; officers and employees

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

§44-11-111. License fees; administration of chapter

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

§44-11-112. Rules and regulations

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

§44-11-113. Entry on property; inspections and inspectors

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

§44-11-114. Exceptions

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

§44-11-115. Crimes and offenses

Any person who operates a community sale without a license, as herein required, or who violates any of the provisions of this chapter, or any rules and regulations lawfully issued hereunder, commits a Class C misdemeanor. Each day upon which livestock is sold or exchanged at any community sale constitutes a separate offense.

§44-12-101. Short title

This chapter shall be known and cited as the "Tennessee Public Livestock Market Charter Act."

§44-12-102. Purpose

The purpose of this chapter is to encourage, stimulate and stabilize the agricultural economy of this state in general, and the livestock economy in particular, by encouraging the construction, development and productive operation by public livestock markets as a key industry of the state with all benefits of fully open, free, competitive factors, in respect to the sales and purchases of livestock.

§44-12-103. Charter required

No person shall conduct the business of a public livestock market without a valid charter to conduct such market.

§44-12-104. Definitions

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

- 1) "Board" means the Tennessee state public livestock market board comprising the persons named in §44-12-106;
- 2) "Charter" means the charter for a public livestock market business authorized to be issued under this chapter;
- 3) "Commissioner" means the commissioner of agriculture;
- 4) "Livestock" means cattle, calves, horses, mules, swine, sheep and goats;
- 5) "Livestock market owner" means any person engaged in the business of conducting or operating a public livestock market, whether personally or through agents or employees;

- 6) "Person" includes any individual, firm, association, partnership or corporation; and
- 7) "Public livestock market" means any place, establishment or facility commonly known as a "livestock market," "livestock auction market," "sales ring," "stockyard," "livestock commission firm" or the like, operated for compensation or profit as a public market for livestock, consisting of pens, or other enclosures, and their appurtenances, in which livestock are received, held, sold, or kept for sale or shipment.

§44-12-105. Exemptions

This chapter shall not be construed to include as a public livestock market the following:

- 1) Any operation where Future Farmers or 4-H Club groups or private fairs conduct sales of livestock;
- 2) Any operation conducted for a dispersal sale of livestock of a farmer, dairyfarmer, livestock breeder or feeder; or
- 3) Any operation where a breeder, feeder, or any association of breeders or feeders of livestock assemble and offer for sale and sell under their own management, or contracted sales management services, any livestock when such breeders or feeders assume all responsibility of such sale and the title of livestock sold. This shall apply to all purebred livestock association sales.

§44-14-102. Definitions for §14, Sheep Producer's Indemnity Law

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

§44-14-103. Cooperatives; who may form

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

§44-14-104. Powers and limitations

Each association organized hereunder has the following powers and limitations:

- 1) INDEMNITY LIMITED. The indemnity allowed shall in no instance exceed the value of the animal;
- 2) LOSSES PRIOR TO MEMBERSHIP. The association shall not protect the member from losses occurring prior to membership in the association;
- 3) LOSSES WHILE MEMBER IN ARREARS. The association shall not indemnify a member for losses sustained while the member is in arrears in payment of membership fees, but the member shall be considered to be suspended and

- without protection until the fees are paid, but shall continue to be liable for all fees due the association;
- 4) **LOSS CAUSED BY DESIGN OF ASSURED.** The association shall not be responsible for any loss caused by the design of the assured;
 - 5) **LIABILITY FOR ASSESSMENT.** No member shall be liable for assessments to pay losses and expenses accruing previous to the time of such member's membership in the association, nor for losses and expenses accruing after membership ceases;
 - 6) **JOINT OR CONCURRENT INDEMNITY.** In all cases of other indemnity against loss by dogs upon the sheep protected in the association, whether prior or subsequent to the date of protection in the association, in the event of loss by dogs, the member will not be entitled to recover on the indemnity in the association any greater portion of the loss sustained than the indemnity in the association shall bear to the whole amount of indemnity on the sheep;
 - 7) **MUST COVER ALL SHEEP.** The member shall schedule for indemnity all the sheep that the member owns within the territory of the association that are one (1) year of age and over. Lambs produced from ewes insured in the association shall be protected according to the schedule of indemnity payments until one (1) year of age, so long as ownership does not change, without the payment of any fees;
 - 8) **FUNDS.** If, at the end of the fiscal year, there are sufficient funds above and beyond those to be expended for indemnity claims, a reasonable reserve fund shall be set aside; then, if there are still additional funds, the remainder shall be credited to the members pro rata (on a basis as paid into the association) on the ensuing year's fees. If there are not sufficient funds from the fees collected that are available at the end of the fiscal year to pay the indemnity claims as approved in full, then all indemnity payments shall be reduced pro rata;
 - 9) **TERM OF INDEMNITY.** All indemnity shall date from the date of issuance of certificate of membership. This indemnity ceases at midnight Central Standard Time (12:00 CST) of the last day of the fiscal year;
 - 10) **RENEWAL OF INDEMNITY.** Indemnity shall be renewed only when the member pays all protective fees and otherwise fulfills all requirements as stipulated in the bylaws;
 - 11) **LIABILITY OF THE ASSOCIATION.** The association shall in no instance be liable for loss from other causes than death of sheep caused by dogs;
 - 12) **CANCELLATION OF MEMBERSHIP.** A member may, at any time upon written request to the secretary and the payment of all valid claims against the member, have such member's membership in the association cancelled;
 - 13) **CANCELLATION OF INDEMNITY.** The association may, upon five (5) days' notice, for any cause deemed sufficient by the board of directors or its representatives, cancel the indemnity of any member or any part thereof; and
 - 14) **ADDITIONAL POWERS.** The association has the power to:
 - 15) Do each and everything necessary, suitable or proper for the accomplishment of any one (1) of the purposes or the attainment of any one (1) of the subjects herein enumerated, or conducive to or expedient for the interest or benefit of the association, and to contract accordingly;

- 16) Exercise and possess all powers, rights and privileges necessary or incidental to the purposes for which the association is organized or to the activities in which it is engaged; and
- 17) Have any other rights, powers and privileges granted by the laws of this state to other corporations, except such as are inconsistent with the express provisions of this chapter.

§44-14-105. Membership

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

§44-14-106. Articles of incorporation

- a) Each association formed under this chapter must prepare and file articles of incorporation setting forth:
 - 1) The name of the association;
 - 2) The purpose for which it is formed;
 - 3) The place where its principal business will be transacted;
 - 4) The term for which it is to exist, not exceeding fifty (50) years; and
 - 5) The number of directors thereof, which must be not less than five (5) and may be any number in excess of five (5);
 - 6) The term of office of such directors; and
 - 7) The names and addresses of those who are to serve as incorporating directors for the first term, and/or until the election and qualification of their successors.
- b) The articles must be subscribed by the incorporators and acknowledged before an officer authorized by the law of this state to take and certify acknowledgments of deeds and conveyances, and shall be filed in accordance with the provisions of the general incorporation law of this state.

§44-14-107. Articles of incorporation; alterations or amendments

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

§44-14-108. Bylaws

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

§44-14-109. Meetings; notice

- a) In its bylaws, each association shall provide for one (1) or more regular meetings each year.
- b) The board of directors shall have the right to call a special meeting at any time; and ten percent (10%) of the members may file a petition stating the specific business to be brought before the association and demand a special meeting at any time.
- c) Such meetings must thereupon be called by the directors. Notice of all meetings, together with a statement of the purposes thereof, shall be mailed to each member at

least ten (10) days prior to the meeting; provided, that the bylaws may require instead that such notice may be given by publication in a newspaper of general circulation, published at the principal place of business of the association.

§44-14-110. Directors

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

§44-14-111. Officers

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

§44-14-112. Bonds (officers and fiduciaries)

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

§44-14-113. Certificates of membership; liability for debts; number of votes

- a) When a member of an association has paid the membership fee in full, and has also paid the prescribed protective fees, such member shall receive a certificate of membership. The promissory notes of the members may be accepted by the association as full or partial payment of fees.

- b) No member shall be liable for the debts of the association to an amount exceeding the sum remaining unpaid on the membership fee or the prescribed protective fees, including any unpaid balance on any promissory notes given in payment of such fees.
- c) No member shall be entitled to more than one (1) vote, regardless of the number of sheep owned by such member.

§44-14-114. Removal of officers or directors

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

§44-14-115. Reports

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

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

§44-14-116. Conflict of laws

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

§44-14-117. Applicability of general corporation laws

- a) The provisions of the general corporation laws of this state, and the powers and rights there under, shall apply to the associations organized hereunder, except where such provisions are in conflict with or inconsistent with the express provisions of this chapter.
- b) None of the provisions of the general insurance laws of the state shall apply to any association or corporation organized under this chapter, except that the department of commerce and insurance shall act in a supervisory capacity and shall be authorized to make an inspection and investigation of the associations' or corporations' books and activities, and may require any reports from the associations or corporations which, in the judgment of the commissioner, shall be deemed to the best interest of the public.

§44-14-118. Articles of incorporation; filing fees

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

§44-16-101. Inspection service; trademarks; fees

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

§44-16-102. Certificates and certification

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

§44-16-103. State inspectors; compensation and salaries

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

§44-16-104. Poultry inspection accounts

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

§44-16-201. Licenses and permits

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

§44-16-202. Licenses and permits; fees; applications

The license fee shall be ten dollars (\$10.00) per year, and each license shall expire on July 1 after date of issue. Applications for such license shall be made in writing upon blanks furnished by the department.

§44-16-203. Sanitation; ample facilities; brands, marks and labels

Any person coming under the provisions of this part shall:

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

§44-16-204. Entry on property; enforcement

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

§44-16-205. Definitions

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

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

§44-16-206. Application of part

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

§44-16-207. Crimes and offenses; revocation of license

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

§44-17-101. Purpose

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

§44-17-102. Definitions

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

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

§44-17-103. Licenses and permits

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

§44-17-104. Licenses and permits; applications; fees

- a) An application for a license as a dealer shall be made to the commissioner on a form provided by the commissioner, which shall contain space for such information as the commissioner may reasonably require, including evidence of ability to comply with such standards, rules and regulations as are lawfully prescribed by the commissioner.
- b) Each application for a license shall be accompanied by a license fee based upon the following:
 - 1) Dealer license fee to sell dogs or cats to research facilities--two hundred and fifty dollars (\$250.00)

- 2) Dealer license fee (wholesale) to sell dogs or cats for resale--one hundred and twenty-five dollars (\$125.00)
 - 3) Dealer license fee (retail) to buy dogs or cats for resale to be assessed as follows:
 - A) Transactions of up to 50 animals per year--one hundred and twenty-five dollars (\$125.00)
 - B) Transactions of 51 to 150 animals per year--two hundred and fifty dollars (\$250.00)
 - C) Transactions of 151 to 300 animals per year--five hundred dollars (\$500.00)
 - D) Transactions of 301 to 500 animals per year--seven hundred and fifty dollars (\$750.00)
 - E) Transactions of more than 500 animals per year--one thousand dollars (\$1,000.00)
- Dealer license fee to transport dogs or cats in commerce--one hundred and twenty-five dollars (\$125.00).

§44-17-105. Licenses and permits; issuance

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

§44-17-106. Licenses and permits; renewal

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

- Dealer license fee to sell dogs or cats to research facilities--one hundred and twenty-five dollars (\$125.00)
- Dealer license fee (wholesale) to sell dogs or cats for resale--one hundred and twenty-five dollars (\$125.00)
- Dealer license fee (retail) to buy dogs or cats for resale to be assessed as follows:
 - Transactions of up to 50 animals per year--one hundred and twenty-five dollars (\$125.00)
 - Transactions of 51 to 150 animals per year--two hundred and fifty dollars (\$250.00)
 - Transactions of 151 to 300 animals per year--five hundred dollars (\$500.00)
 - Transactions of 301 to 500 animals per year--seven hundred and fifty dollars (\$750.00)
 - Transactions of more than 500 animals per year--one thousand dollars (\$1,000.00)

- Dealer license fee to transport dogs or cats in commerce--one hundred and twenty-five dollars (\$125.00).

§44-17-107. Licenses and permits; revocation or suspension

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

§44-17-108. Reports

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

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

§44-17-109. Research facilities; registration

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

§44-17-110. Research facilities; marking or identifying cats and dogs

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

§44-17-111. Records and recordation; research facilities and dealers

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

§44-17-112. Research facilities; sales

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

§44-17-113. Bills of sale; research facilities or dealers

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

§44-17-114. Disposition of cats or dogs; time

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

§44-17-115. Inspections and inspectors; dealers or research facilities; stop of motor vehicles or other conveyances

- a) The premises of any dealer or research facility shall be made available to the commissioner or the commissioner's representative for inspection at all reasonable times. The commissioner or the commissioner's representative shall make or cause to be made such inspections or investigations of such premises as considered necessary.
- b) The commissioner or the commissioner's representative, or any legally constituted law enforcement agency, may stop any motor vehicle or other conveyance

transporting dogs or cats for inspections as to the humane treatment of animals and compliance with licensing requirements of this part or for investigations in search of lost or stolen animals.

- c) The commissioner shall issue rules and regulations requiring licensed dealers and research facilities to permit inspection of their animals and records at reasonable hours upon request by legally constituted law enforcement agencies in search of lost animals.
- d) Nothing in this part shall be construed as authorizing the commissioner to promulgate rules, regulations, or orders governing the handling, care, treatment or inspection of animals during actual research or experimentation by a research facility.

§44-17-116. Crimes and offenses

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

§44-17-117. Officers and employees; acts, omissions or failures

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

§44-17-118. Rules and regulations

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

§44-17-119. Additional and supplemental provisions

The provisions of this part are in addition to and supplementary of title 39, chapter 14, part 2.

§44-17-120. Death or serious injury; destruction of dogs

- a) Any dog which attacks a human and thereby causes death or serious injury may be destroyed upon the order of such judge of the circuit court of the county wherein the attack occurred. Such orders shall be granted on the petition of the district attorney general for the county. The petition shall name the owner of the dog, and the owner shall be given notice as in civil cases, that if the owner does not appear before the court within five (5) days of the receipt thereof and show cause why the dog should not be destroyed, then the order shall issue and the dog shall be destroyed.
- b) Notwithstanding the provisions of subsection (a), in counties having a population of not less than eight hundred twenty-five thousand (825,000) nor more than eight hundred thirty thousand (830,000) according to the 1990 federal census or any subsequent federal census, a municipality or county is authorized to adopt local ordinances authorizing the municipality or the county to appropriately petition in a general sessions court to provide for the disposition of dangerous dogs and/or dogs causing death or serious injury to humans or other animals.

§44-17-121. Confiscation of animals

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

§44-17-122. Cooperation with local and federal authorities

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

§44-17-201. Owners liability

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

§44-17-202. Ignorance of dog's vicious habits or character

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

§44-17-203. Killing or injuring dogs; defenses

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

§44-17-302. Applicability of part, the Nonlivestock Animal Humane Death Act

The provisions of this part shall be applicable only to public and private agencies, animal shelters and other facilities operated for the collection, care and/or euthanasia of stray, neglected, abandoned or unwanted nonlivestock animals.

§44-17-303. Methods of euthanasia

- a) Sodium pentobarbital and such other agents as may be specifically approved by the rules of the board of veterinary medicine shall be the only methods used for euthanasia of nonlivestock animals by public and private agencies, animal shelters and other facilities operated for the collection, care and/or euthanasia of stray, neglected, abandoned or unwanted nonlivestock animals. A lethal solution shall be used in the following order of preference:
 - 1) Intravenous injection by hypodermic needle;
 - 2) Intraperitoneal injection by hypodermic needle;
 - 3) Intracardial injection by hypodermic needle, but only if performed on heavily sedated, anesthetized or comatose animals; or
 - 4) Solution or powder added to food.
- b) A nonlivestock animal may be tranquilized with an approved and humane substance before euthanasia is performed.
- c) Succinylcholine chloride, curare, curariform mixtures, strychnine, nicotine, chloral hydrate, magnesium or potassium or any substance which acts as a neuromuscular

blocking agent, or any chamber which causes a change in body oxygen may not be used on any nonlivestock animal for the purpose of euthanasia. Any such chamber in use as of July 1, 2001, shall be phased out and shall not be used on or after July 1, 2002.

- d) Euthanasia shall be performed only by a licensed veterinarian, Tennessee veterinarian medical technician or an employee or agent of a public or private agency, animal shelter or other facility operated for the collection, care and/or euthanasia of stray, neglected, abandoned or unwanted nonlivestock animals, provided that the Tennessee veterinarian medical technician, employee or agent has successfully completed a euthanasia-technician certification course. The curriculum for such course must be approved by the board of veterinary medical examiners and must include, at a minimum, knowledge of animal anatomy, behavior and physiology; animal restraint and handling as it pertains to euthanasia; the pharmacology, proper dosages, administration techniques of euthanasia solution, verification of death techniques, laws regulating the storage, security and accountability of euthanasia solutions; euthanasia technician stress management and the proper disposal of euthanized nonlivestock animals.
- e) An employee, agent or Tennessee veterinarian medical technician performing euthanasia prior to July 1, 2001, who previously passed an approved euthanasia-technician certification course will be accepted as qualified under the Nonlivestock Animal Humane Death Act to perform euthanasia on nonlivestock animals. Any other employee, agent or Tennessee veterinarian medical technician seeking to perform euthanasia on nonlivestock animals on or after July 1, 2001, must obtain certification prior to performing any such euthanasia.
- f) A nonlivestock animal may not be left unattended between the time euthanasia procedures are first begun and the time that death occurs, nor may its body be disposed of until a qualified person confirms death.
- g) Notwithstanding the provisions of this section or any other law to the contrary, whenever an emergency situation exists in the field which requires the immediate euthanasia of an injured, dangerous or severely diseased nonlivestock animal, a law enforcement officer, a veterinarian, or agent of a local animal control unit or the designee of such an agent may humanely destroy the nonlivestock animal.
- h) For purposes of this part, "nonlivestock animal" shall have the meaning set forth in §39-14-201(3).
- i) The attorney general may bring an action to enjoin any violation of the Nonlivestock Animal Humane Death Act.
- j) Any person who violates the provisions of the Nonlivestock Animal Humane Death Act is guilty of a Class A misdemeanor.
- k) These provisions shall not apply to exotic animals being held under the authority of title 70, chapter 4, part 4, and Rule 1660-1-18-.05 of the Official Compilation of Rules and Regulations of the State of Tennessee.

§44-17-401. Use of electronic locating collars on dogs

No agency or entity of state or local government shall enact, adopt, promulgate, or enforce any law, ordinance, rule, regulation, or other policy which restricts or prevents the owner of any dog from using an electronic locating collar to protect such dog from

loss; except that the wildlife resources commission may limit the use of electronic locating collars through the promulgation of rules and regulations when required for the proper management of wildlife species.

§44-17-402. Admission of hunters onto property owned by wildlife resources agency; search for lost dogs

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

§44-17-403. Liability for death of pet; damages; exemptions

- a) If a person's pet is killed or sustains injuries which result in death caused by the unlawful and intentional, or negligent, act of another or the animal of another, the trier of fact may find the individual causing the death or the owner of the animal causing the death liable for up to four thousand dollars (\$4,000) in non-economic damages; provided, that if such death is caused by the negligent act of another, the death or fatal injury must occur on the property of the deceased pet's owner or caretaker, or while under the control and supervision of the deceased pet's owner or caretaker.
- b) As used in this section, "pet" means any domesticated dog or cat normally maintained in or near the household of its owner.
- c) Limits for non-economic damages set out in subsection (a) shall not apply to causes of action for intentional infliction of emotional distress or any other civil action other than the direct and sole loss of a pet.
- d) Non-economic damages awarded pursuant to this section shall be limited to compensation for the loss of the reasonably expected society, companionship, love and affection of the pet.
- e) This section shall not apply to any not-for-profit entity or governmental agency, or their employees, negligently causing the death of a pet while acting on the behalf of public health or animal welfare; to any killing of a dog that has been or was killing or worrying livestock as in §44-17-203; nor shall this section be construed to authorize any award of non-economic damages in an action for professional negligence against a licensed veterinarian.
- f) The provisions of this section shall apply only in incorporated areas of any county having a population in excess of seventy-five thousand (75,000) according to the 1990 federal census or any subsequent census.

§44-17-502. Adoption; requirements for the Tennessee Spay/Neuter Law

- a) No person shall adopt a dog or cat from an agency, including, but not limited to an animal shelter, dog pound, animal control agency or humane shelter operated by a municipality, county, or other governmental agency within the state, or a private organization operating a shelter from which animals are adopted or reclaimed, unless:

- 1) The dog or cat has already been spayed or neutered;
- 2) The dog or cat has been spayed or neutered by a licensed veterinarian while in the custody of the agency; or
- 3) The new owner signs a written agreement with the agency stating that the new owner will have the dog or cat spayed or neutered by a licensed veterinarian:
 - A) Within thirty (30) days of the date of the adoption, if such dog or cat is sexually mature; or
 - B) Within thirty (30) days after the dog or cat reaches six (6) months of age, if the dog or cat is not sexually mature at the time of the adoption.
- b) Nothing in this section shall preclude the spaying or neutering of a sexually immature dog or cat at the discretion of a licensed veterinarian with the consent of the new owner.

§44-17-503. Deposit

- a) If the dog or cat being adopted has not been spayed or neutered, the agency shall require a deposit of not less than twenty-five dollars (\$25.00) from the new owner prior to the adoption in order to ensure that the dog or cat is spayed or neutered. The new owner may request and shall receive a refund of the deposit from the agency upon providing confirmation of the spaying or neutering.
- b) If the new owner fails to have the dog or cat spayed or neutered within the time frame established by §44-17-502, or if the spaying or neutering is timely performed, but the new owner fails to request the return of the deposit within an additional ten (10) days after the date by which the spaying or neutering is required to be performed, such deposit shall be forfeited to the agency holding the deposit and shall be used by the agency to conduct programs to spay or neuter dogs and cats and/or to conduct educational programs in support of the spaying and neutering of dogs and cats.

§44-17-504. Compliance petition

If a person fails to comply with the provisions of this part, the agency may file a petition with a court of competent jurisdiction seeking compliance and/or requesting return of the dog or cat to the agency from which it was adopted.

§44-17-505. Claim by owner; construction of part

Nothing in this part shall be construed to authorize an agency to spay or neuter a dog or cat, if such dog or cat is being claimed by and returned to its lawful owner within seven (7) days of such dog or cat being taken into custody by the agency.

§44-20-101. Findings; legislative intent

The general assembly recognizes that persons who participate in equine activities may incur injuries as a result of the risks involved in such activities. The general assembly also finds that the state and its citizens derive numerous economic and personal benefits from such activities. It is, therefore, the intent of the general assembly to encourage equine activities by limiting the civil liability of those involved in such activities.

§44-20-102. Definitions

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

- 1)
 - A) “Engages in an equine activity” means riding, training, assisting in medical treatment of, driving, or being a passenger upon an equine, whether mounted or unmounted or any person assisting a participant or show management.
 - B) “Engages in an equine activity” does not include being a spectator at an equine activity, except in cases where the spectator places such spectator's person in an unauthorized area and in immediate proximity to the equine activity;
- 2) “Equine” means a horse, pony, mule, donkey, or hinny;
- 3) “Equine activity” means:
 - A) Equine shows, fairs, competitions, performances, or parades that involve any or all breeds of equines and any of the equine disciplines, including, but not limited to, dressage, hunter and jumper horse shows, grand prix jumping, three-day events, combined training, rodeos, driving, pulling, cutting, polo, steeplechasing, English and western performance riding, endurance trail riding and western games, and hunting;
 - B) Equine training or teaching activities, or both;
 - C) Boarding equines;
 - D) Riding, inspecting, or evaluating an equine belonging to another, whether or not the owner has received some monetary consideration or other thing of value for the use of the equine or is permitting a prospective purchaser of the equine to ride, inspect, or evaluate the equine;
 - E) Rides, trips, hunts, or other equine activities of any type, however informal or impromptu, that are sponsored by an equine activity sponsor; and
 - F) Placing or replacing horseshoes on an equine;
- 4) “Equine activity sponsor” means an individual, group, club, partnership, or corporation, whether or not the sponsor is operating for profit or nonprofit, which sponsors, organizes, or provides the facilities for an equine activity, including, but not limited to, pony clubs, 4-H clubs, hunt clubs, riding clubs, school and college-sponsored classes, programs and activities, therapeutic riding programs, and operators, instructors, and promoters of equine facilities, including, but not limited to, stables, clubhouses, pony ride strings, fairs, and arenas at which the activity is held;
- 5) “Equine professional” means a person engaged for compensation:
 - A) In instructing a participant or renting to a participant an equine for the purpose of riding, driving, or being a passenger upon the equine; or
 - B) In renting equipment or tack to a participant;
- 6) “Inherent risks of equine activities” means those dangers or conditions which are an integral part of equine activities, including, but not limited to:
 - A) The propensity of an equine to behave in ways that may result in injury, harm, or death to persons on or around them;
 - B) The unpredictability of an equine’s reaction to such things as sounds, sudden movements, and unfamiliar objects, persons, or other animals;

- C) Certain hazards such as surface and subsurface conditions;
 - D) Collisions with other equines or objects; and
 - E) The potential of a participant to act in a negligent manner that may contribute to injury to the participant or others, such as failing to maintain control over the animal or not acting within the participant's ability.
- 7) "Participant" means any person, whether amateur or professional, who engages in an equine activity, whether or not a fee is paid to participate in the equine activity.

§44-20-103. Inherent risks

Except as provided in §44-20-104, an equine activity sponsor, an equine professional, or any other person, which shall include a corporation or partnership, shall not be liable for an injury to or the death of a participant resulting from the inherent risks of equine activities. Except as provided in §44-20-104, no participant or participant's representative shall make any claim against, maintain an action against, or recover from an equine activity sponsor, an equine professional, or any other person for injury, loss, damage, or death of the participant resulting from any of the inherent risks of equine activities.

§44-20-104. Horse racing; known dangerous latent conditions; willful or wanton disregard for safety; intentional injury

- a) This chapter shall not apply to the horse racing industry as regulated in title 4, chapter 36.
- b) Nothing in §44-20-103 shall prevent or limit the liability of an equine activity sponsor, an equine professional, or any other person if the equine activity sponsor, equine professional, or person:
 - 1)
 - A) Provided the equipment or tack, and knew or should have known that the equipment or tack was faulty, and such equipment or tack was faulty to the extent that it did cause the injury; or
 - B) Provided the equine and failed to make reasonable and prudent efforts to determine the ability of the participant to engage safely in the equine activity and determine the ability of the participant to safely manage the particular equine based on the participant's representations of the participant's ability;
 - 2) Owns, leases, rents, or otherwise is in lawful possession and control of the land or facilities upon which the participant sustained injuries because of a dangerous latent condition which was known to the equine activity sponsor, equine professional, or person and for which warning signs have not been conspicuously posted;
 - 3) Commits an act or omission that constitutes willful or wanton disregard for the safety of the participant, and that act or omission caused the injury; or
 - 4) Intentionally injures the participant.
- c) Nothing in §44-20-103 shall prevent or limit the liability of an equine activity sponsor or an equine professional:
 - 1) Under product liability provisions in title 29, chapter 28; or
 - 2) Under trespass provisions in chapter 8 of this title.

- d) Title 70, chapter 7 does not apply to an equine activity sponsor or an equine professional. It is the legislative intent that equine activity sponsors and equine professionals be held to a higher standard of care.

§44-20-105. Warning signs

- a) Every equine professional shall post and maintain signs which contain the warning notice specified in subsection (b). Such signs shall be placed in clearly visible locations on or near stables, corrals, or arenas where the equine professional conducts equine activities if such stables, corrals, or arenas are owned, managed, or controlled by the equine professional. The warning notice specified in subsection (b) shall appear on the sign in black letters, with each letter to be a minimum of one inch (1”) in height. Every written contract entered into by an equine professional for the providing of professional services, instruction, or the rental of equipment or tack or an equine to a participant, whether or not the contract involves equine activities on or off the location or site of the equine professional's business, shall contain in clearly readable print the warning notice specified in subsection (b).
- b) The signs and contracts described in subsection (a) shall contain the following warning notice:
 WARNING: Under Tennessee Law, an equine professional is not liable for an injury to or the death of a participant in equine activities resulting from the inherent risks of equine activities, pursuant to Tennessee Code Annotated, title 44, chapter 20.

§49-6-4208. Searches and seizures; trained animals

To facilitate a search which is found to be necessary, dogs or other animals trained to detect drugs or dangerous weapons by odor or otherwise may be used in conducting searches, but such animals shall be used only to pinpoint areas needed to be searched and shall not be used to search the persons of students or visitors.

§49-8-106. Military reserve officers; training

- a) The state university and community college system is authorized and empowered to establish reserve officers training corps units in any public college or university under its jurisdiction, to execute and deliver bond, with or without surety, in such manner and on such terms and conditions as may be required by the United States, for the care and safekeeping of such transportation animals, arms, ammunition, supplies, tentage and equipment as may be necessary or desirable for the operation, conduct and training of any reserve officers training corps units of the armed forces of the United States authorized by law at any time, to be conducted in conjunction with any public college or university under its jurisdiction.
- b) The authority hereinbefore delegated to the state university and community college system may, at its discretion, be redelegated by the system to the presidents of the several universities, colleges and institutions, now or hereafter under control of the system.
- c) Nothing in the provisions of §49-3-1106 shall limit the authority herein conferred.
- d) Under authority of this section, suits may be brought by the United States against the state university and community college system of Tennessee.

§55-4-290. Animal friendly – Animal population control endowment fund

- a) Owners or lessees of motor vehicles who are residents of the state of Tennessee, upon complying with state motor vehicle laws relating to registration and licensing of motor vehicles and paying the regular fee applicable to the motor vehicle and the fee provided for in §55-4-203, shall be issued an “Animal Friendly” new specialty earmarked license plate for a motor vehicle authorized by §55-4-210(c).
- b) The new specialty earmarked plates provided for in this section shall contain an appropriate image, design or logo that depicts an animal or animals and indicates support for animal welfare.
- c)
 - 1) The funds produced from the sale of “Animal Friendly” new specialty earmarked license plates, pursuant to §55-4-215 shall be deposited in a special fund in the general fund to be used exclusively for grants to non-profit organizations or governmental agencies to provide low-cost spaying and neutering of unsterilized animals to prevent and/or reduce animal overpopulation as well as funding to defray costs incurred by the department of agriculture associated with the licensing of dog and cat dealers pursuant to title 44, chapter 17, part 1, not to exceed eighty thousand dollars (\$80,000) per year and not to be available to the department for such purposes after July 1, 2004. It is the intent of the general assembly that the department sustain a grant program to spay and neuter clinics in fiscal years 2003 and 2004 that at least approximates the level of grant allocations in fiscal year 2002 subject to satisfactory qualifications of the respective applicants.
 During the first fiscal year in which revenues derived from the fees collected pursuant to title 44, chapter 17, part 1, exceed one hundred thirty thousand dollars (\$130,000), the department of agriculture shall allocate all such revenues in excess of one hundred thirty thousand dollars (\$130,000) to the animal population control endowment fund. The department of agriculture shall continue the procedure outlined in the preceding sentence during subsequent fiscal years until such time as the department has made reimbursements to the animal population control endowment fund in a total amount of one hundred sixty thousand dollars (\$160,000). The commissioner of agriculture is authorized to make grants to eligible organizations to operate animal sterilization programs from moneys available in the special fund.
 - 2) There is hereby established a general fund reserve to be allocated by the general appropriations act which shall be known as the “animal population control endowment fund.” Moneys from the fund may be expended to fund activities authorized by this section. Any revenues deposited in this reserve shall remain in the reserve until expended for purposes consistent with this section, and shall not revert to the general fund on any June 30. Any excess revenues on interest earned by such revenues shall not revert on any June 30, but shall remain available for appropriation in subsequent fiscal years. Any appropriation from such reserve shall not revert to the general fund on any June 30, but shall remain available for expenditure in subsequent fiscal years.

- 3) All revenues produced from the sale and renewal of the new specialty earmarked plates authorized by this section shall be allocated in accordance with the provisions of §55-4-215.

§55-8-101. Chapter definitions

As used in this chapter and chapter 10, parts 1-5, of this title, unless the context otherwise requires:

- 14) “Driver” means every person who drives or is in actual physical control of a vehicle;
- 51) “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;
- 73) “Vehicle” means every device in, upon or by which any person or property is or may be transported or drawn upon a highway, excepting devices used exclusively upon stationary rails or tracks.

§55-8-105. Persons riding animals or driving animal-drawn vehicles

Every person riding an animal or driving any animal-drawn vehicle upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by this chapter and chapter 10, parts 1-5 of this title, except those provisions of this chapter and chapter 10, parts 1-5 of this title which by their very nature can have no application.

§55-8-178. Regulations governing nonmotor vehicles and animals – Penalty

- a) Every driver or person having charge of any nonmotor vehicle, on any of the public roads in or of this state, on meeting and passing another vehicle, shall give one half (1/2) of the road by turning to the right, so as not to interfere in passing.
- b) When nonmotor vehicles on such roads are traveling in the same direction, and the driver of the hindmost desires to pass the foremost, each driver shall give one half (1/2) of the road, the foremost by turning to the right, and the hindmost to the left.
- c)
 - 1) No driver shall stop a nonmotor vehicle on any of the public roads, for any cause or pretense whatever, without turning so far to the right as to leave at least one half (1/2) of the road free, open, and unobstructed for other travelers and vehicles.
 - 2) This subsection does not apply to a certified police cyclist engaged in the lawful performance of duty relating to traffic control.
- d) Drivers of nonmotor vehicles on public roads shall pass each other in a quiet, orderly, and peaceable manner, and shall not make any noise intended to disturb or frighten the driver or the animals drawing nonmotor vehicles.
- e) No person shall willfully, by noise, gesture or by other means, on or near public roads, disturb or frighten the driver or rider or the animals ridden or drawing vehicles thereon.
- f)
 - 1) An intentional or careless violation of this section is a Class C misdemeanor.

- 2) A willful or malicious violation of this section, whereby the death of any person is occasioned, is a Class E felony.

g)

- 1) All horse-drawn vehicles and/or equipment, whether farm or passenger, shall be equipped with a self-luminous white lamp which shall be visible from the front from a distance of at least five hundred feet (500') and with a self-luminous red lamp on the rear which shall be visible from a distance of at least five hundred feet (500') to the rear.
- 2) The provisions of this subsection apply only if such horse-drawn vehicle is used as the owner's primary mode of personal or farm transportation and is regularly driven upon public roads or highways or the rights-of-way thereof.
- 3) The provisions of this subsection do not apply in any county having a population of not less than three hundred nineteen thousand six hundred twenty-five (319,625) nor more than three hundred nineteen thousand seven hundred twenty-five (319,725) or of not less than eighty-eight thousand seven hundred (88,700) nor more than eighty-eight thousand eight hundred (88,800), according to the 1980 federal census or any subsequent federal census.

§55-8-179. Use of raised identifying cane or blaze orange dog leash restricted to blind or deaf persons – Penalty as relates to Seeing Eye and Assistance Dogs

- a) No person, unless totally or partially blind or otherwise incapacitated, while on any public street or thoroughfare shall carry in any raised or extended position any cane or similar walking stick colored white or white tipped with red.
- b) No person, unless totally or partially deaf, shall carry, hold, or use on any street, highway, or in any other public place, a leash blaze orange in color on any dog accompanying such person.
- c) A violation of this section is a Class C misdemeanor.

§55-8-180. Pedestrians led by guide dog or carrying identifying cane given right of way – Penalty

- a) Whenever any pedestrian guided by a guide dog or dog on a blaze orange leash, or carrying in any raised or extended position a cane or similar stick white in color or white tipped with red, shall undertake to cross any public street or thoroughfare in this state, the driver of each and every vehicle approaching such pedestrian carrying such cane or stick or conducted by such dog shall bring such vehicle to a complete stop and before proceeding shall take all precautions necessary to avoid injuring such pedestrian; provided, that nothing herein shall be construed as making any person totally or partially blind or otherwise incapacitated guilty of contributory negligence in undertaking to cross any street or thoroughfare without being guided by a trained dog or carrying a cane or stick of the type above mentioned.
- b) A violation of this section is a Class C misdemeanor.

§56-2-201. Definitions of kinds of insurance

Kinds of insurance are defined, as follows:

- H) "Livestock insurance," which is insurance against loss of or damage to any domesticated or wild animal resulting from any cause;

§56-7-2101. “Pet” defined

As used in this part, “pet” means any domesticated animal normally maintained in or near the household of its owner.

§56-7-2102. Policies or contracts

Any insurer writing any coverage to which the provisions of this title apply may offer group or individual policies or contracts which provide benefits for hospital and medical services for pets; provided, that these services are provided by a veterinarian licensed pursuant to title 63, chapter 12, or by the laws of any other state. The policy or contract may provide for exclusions or deductibles, or both.

§56-7-2103. Disclosure

All policies issued pursuant to this part shall clearly disclose on the face of the policy:

- 1) The annual premium for the policy; and
- 2) The benefits provided by the policy.

§62-7-112. Guide dogs to be admitted – Penalties

a)

1)

A) No proprietor, employee or other person in charge of any place of public accommodation, amusement or recreation, including, but not limited to, any inn, hotel, restaurant, eating house, barber shop, billiard parlor, store, public conveyance on land or water, theater, motion picture house, public educational institution or elevator, shall refuse to permit a blind, physically disabled or deaf or hard of hearing person to enter such place or to make use of the accommodations therein provided, when such accommodations are available for the reason that such blind, physically disabled or deaf or hard of hearing person is being led or accompanied by a dog guide; provided, that such dog guide, when led or accompanied by a blind person or physically disabled person, is wearing a harness and is held on a leash by the blind or physically disabled person, or when led or accompanied by a deaf or hard of hearing person, is held on a leash by the deaf or hard of hearing person; and provided further, that such blind or deaf or hard of hearing person or physically disabled person shall first have presented for inspection credentials issued by an accredited school for training dog guides.

B)

(i) No proprietor, employee or other person in charge of any place of public accommodation, amusement or recreation, including, but not limited to, any inn, hotel, restaurant, eating house, barber shop, billiard parlor, store, public conveyance on land or water, theater, motion picture house, public educational institution or elevator, shall refuse to permit a dog guide trainer to enter such place or to make use of the accommodations therein provided, when such accommodations are available for the reason that the dog guide trainer is being led or accompanied by a dog guide in training; provided, that such dog guide in training, when led or accompanied by a dog guide trainer, is wearing a harness and is held on a leash by the dog

guide trainer, or when led or accompanied by a dog guide trainer, is held on a leash by the dog guide trainer; and provided further, that the dog guide trainer shall first have presented for inspection credentials issued by an accredited school for training dog guides.

- (ii) For purposes of this section, “dog guide in training” shall include dogs being raised for an accredited school for training dog guides; provided, however, that a dog being raised for such purpose is:
 - (a) Being held on a leash and is under the control of its raiser or trainer who shall have available for inspection credentials from the accredited school for which the dog is being raised; and
 - (b) Wearing a collar, leash, or other appropriate apparel or device that identifies such dog with the accredited school for which it is being raised.

“Dog guide in training” shall also include the socialization process that occurs with such dog’s trainer or raiser prior to the dog’s advanced training; provided, that such socialization process is under the authorization of an accredited school.

2)

- A) In the case of deaf or hard of hearing persons, in lieu of credentials from an accredited school for training dog guides, the deaf or hard of hearing person may apply at the Tennessee Council for the Deaf and Hard of Hearing (TCDHH) for credentials. The application shall be accompanied by affidavits from the owner or owners and from someone involved in training the dog, stating that the dog for which the license is sought has been trained to aid the deaf or hard of hearing. Forms for affidavits required under this subsection (a) shall be made available by TCDHH. After receiving these affidavits, TCDHH shall issue appropriate credentials certifying the dog as a guide dog for the deaf or hard of hearing person.
- B) The TCDHH shall promulgate rules and regulations in accordance with the provisions of the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, to establish uniform criteria to govern application for and issuance of credentials by the TCDHH for such dog guides for deaf or hard of hearing persons.

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

§62-19-103. Exemptions

The provisions of this chapter do not apply to:

- 8) Any livestock auction sale regulated by the United States department of agriculture packers and stockyards administration, if the sale uses:
 - A) The shipper’s proceeds account required by federal regulations; and
 - B) A Tennessee licensed auctioneer.

§62-19-111. General licensing provisions

- a) Any individual who desires a license as an apprentice auctioneer shall submit an application to the commission on the prescribed form. The application shall be accompanied by a nonrefundable examination fee as set by the commission, and satisfactory proof that the applicant has:
 - 1) Reached at least eighteen (18) years of age; and
 - 2) Successfully completed eighty (80) hours of classroom instruction in the fundamentals of auctioneering at an auction school accredited by the commission.
- b) Any individual who desires a license as an auctioneer shall submit an application to the commission on the prescribed form. The application shall be accompanied by a nonrefundable examination fee as set by the commission, and satisfactory proof that the applicant has:
 - 1) Reached at least eighteen (18) years of age;
 - 2) Served as an apprentice auctioneer under the supervision of a licensed, full-time auctioneer for a period of two (2) years;
 - 3) Successfully completed, in addition to the education required by subdivision (a)(2), thirty (30) hours of more rigorous classroom instruction in an auctioneering-related subject approved by the commission; and
 - 4) Obtained a high school diploma or general equivalency diploma (GED).
- c) The commission may require such other proof, through the application or otherwise, as it shall deem desirable as to the honesty, trustworthiness, integrity, reputation, and competency of the auctioneer or apprentice auctioneer applicant.
- d) Any person who meets the requirements of subsections (a)-(c) is entitled to an examination prescribed by the commission to determine such person's qualifications. The examination shall include, but not be limited to, reading, writing, spelling, elementary arithmetic, elementary principles of land economics, ethics, the law of this state relating to bulk sales, auctions and brokerage, and the provisions of this chapter. The examination for an auctioneer's license shall be of more exacting nature and scope than the examination for an apprentice auctioneer's license.
- e) Any applicant who fails an examination must pay a fee as set by the commission for each reexamination.
- f) The commission shall issue to a qualified applicant a license and pocket card upon receipt of the appropriate fee as set by the commission. The license shall be conspicuously displayed at all times in the office of the licensee.
- g) Except as provided in §62-19-117(a), every auctioneer licensed hereunder shall maintain a place of business in this state at a firm which has been duly licensed by the commission.
- h)
 - 1) A person who desires a license for a firm shall submit an application to the commission on the prescribed form. A firm license must be issued in the name of the firm with a specific person acting as principal and holder of a valid auctioneer's license. The application shall be accompanied by a nonrefundable examination fee as set by the commission, and satisfactory proof that:
 - A) The applicant has reached at least eighteen (18) years of age;

- B) The applicant, if not a holder of a principal auctioneer's license, has completed thirty (30) hours of rigorous classroom instruction in an auctioneering-related subject approved by the commission; and
 - C) The applicant has obtained a high school diploma or general equivalency diploma (GED).
- 2) The commission may require such other proof, through the application or otherwise, as it shall deem desirable as to the honesty, trustworthiness, integrity, reputation and competency of the auctioneer or apprentice auctioneer applicant; and
 - 3) Any person who meets the requirements of subdivisions (h)(1) and (h)(2) shall be entitled to an examination prescribed by the commission to determine such person's qualifications. The examination shall include, but shall not be limited to, reading, writing, spelling, elementary arithmetic, elementary principles of land economics, ethics, the law of this state relating to bulk sales, auctions, and brokerage, and the provisions of this chapter.
 - 4) The examination for a firm license shall be of a more exacting nature and scope than the examination for an apprentice auctioneer's license, except that a nonauctioneer applying for a firm license shall not be required to take the oral part of the auctioneer's test consisting of actual bid calling.
 - 5) Any applicant who fails an examination must pay a fee as set by the commission for each reexamination.
 - 6) The commission shall issue to qualified applicants a license and pocket card upon receipt of the appropriate fee as set by the commission. The firm license shall be conspicuously displayed at all times in the office of the licensee.
 - 7) Any person currently holding a valid auctioneer firm license may renew the same by filing an application for renewal and paying the required fee before the expiration date of such firm license.
 - 8) If the applicant for a firm license maintains more than one (1) place of business within the state, the applicant shall apply for and obtain an additional firm license for each branch office.
 - 9) A firm license shall automatically be suspended if no licensed auctioneer is engaged in business therein. Such license may be reinstated by the commission for the unexpired term upon proof that a duly licensed auctioneer has been affiliated with the firm.
 - 10) Any person in this state who for a fee is in the business of managing auctions to the extent such person is responsible for the advertising, consignments, promotion and/or distribution of funds must hold a valid firm license.
 - 11) All contracts for services to be performed by an auction firm, except an auto auction as defined in §55-17-102(2), must be negotiated for and signed by an auctioneer who is a member of the firm or by the auctioneer's attorney.
- i) All licenses issued by the commission shall expire two (2) years from the original date the license was issued. Each license must be renewed on or before its expiration date.
 - j) If a licensee fails to renew a license on or before its expiration date, the commission may, in its discretion, renew the license upon application within two (2) months thereafter. The application shall be accompanied by the prescribed fee plus a penalty

as set by the commission. Any person wishing to renew a license later than two (2) months after its expiration shall reapply for licensure; provided, that the commission may, in its discretion:

- 1) Waive reexamination or additional education requirements for such an applicant; or
 - 2) Reinstate a license subject to the applicant's compliance with such reasonable conditions as the commission may prescribe, including payment of an additional reasonable fee to be set by the commission.
- k) When fees are remitted by mail to the commission, the date of payment shall be determined by the official postmark of such mail.
 - l) When an apprentice auctioneer's employment with an auctioneer is terminated for any reason, the auctioneer shall immediately deliver or send by registered mail the apprentice auctioneer's license to the commission. Such apprentice auctioneer shall not engage in any activity defined in §62-19-101(3) until the apprentice auctioneer receives a new license and pocket card, for the unexpired term, bearing the name and address of the new employer. The fee for such new license and pocket card shall be set by the commission.
 - m) No more than one (1) license shall be issued to any apprentice auctioneer to be in effect at any one (1) time.
 - n) No license issued by the commission shall authorize the licensee to engage in business at any location other than that set forth on the license. A licensee shall immediately notify the commission in writing in the event of a change of business location. The written notice shall be accompanied by the current license and pocket card, and a fee as set by the commission.
 - o) Notwithstanding the provisions of subdivision (b)(2), any individual who otherwise would qualify for the auctioneer's examination by January 1, 1984, need complete only one (1) year of apprenticeship in order to be eligible for such examination.
 - p) Auctions for the sale of registered livestock must be conducted by a licensed auctioneer. Such auctioneer shall be exempt from the responsibilities of issuing closing statements and disbursing funds if such responsibilities are performed by a duly chartered livestock association or livestock breed association.
 - q) An apprentice auctioneer may be employed by a licensed auctioneer who is not designated as the apprentice's sponsor, upon receiving written permission from the apprentice's sponsor and notifying the commission of such employment in the proper form and manner as prescribed by the rules of the commission. An auctioneer employing an apprentice who is not under that auctioneer's sponsorship shall be responsible for the actions of the apprentice while under that auctioneer's employment and the sponsor shall be responsible for the actions of the apprentice at all other times.
 - r) The commission may deny any applicant for an apprentice, auctioneer, or firm license the right to take an examination for a period up to two (2) years if the applicant is found by the commission to have conducted business within this state as an apprentice auctioneer, auctioneer, or firm owner without first having been properly licensed.

§63-12-102. Purpose of chapter

It is hereby declared that the practice of veterinary medicine is a privilege which is granted by legislative authority in the interest of the public health, safety and welfare. To protect the public from being misled by incompetent, unscrupulous and unauthorized practitioners, and from unprofessional or illegal practices by persons licensed to practice veterinary medicine, this chapter is enacted in the interest of the health, safety and welfare of the animal population and the citizens of Tennessee.

§63-12-103. Chapter definitions

As used in this chapter:

- 1) "Animal" means any animal other than man, and includes fowl, birds, reptiles and fish, wild or domestic, living or dead;
- 2) [Deleted by 1999 amendment.]
- 3) "Board" means the board of veterinary medical examiners;
- 4) "Certified animal control agency" means a county or municipal animal shelter, dog pound, or animal control agency, private humane society, state, county or municipal law enforcement agency, or any combination thereof, which temporarily houses stray, unwanted or injured animals and which is certified pursuant to the provisions of this chapter;
- 5) "Certified animal euthanasia technician" means a person employed by a certified animal control agency who is authorized by the board to humanely euthanize animals by administering such drugs as are designated by the board for such use.
- 6) "Complainant" means the board or any other person who initiates a proceeding;
- 7) "License" means any permit, approval, registration or certificate issued by the board;
- 8) "Licensed veterinarian" means a person who is validly and currently licensed to practice veterinary medicine in this state;
- 9) "Licensed veterinary technician" means a person who has successfully completed the examination requirements prescribed by the board and has been issued a license;
- 10) "Practice of veterinary medicine" means to:
 - A) Diagnose, prescribe or administer any drug, medicine, biologic, appliance, application or treatment of whatever nature for the cure, prevention or relief of any wound, fracture, bodily injury or disease of animals;
 - B) Perform any surgical operation, including cosmetic surgery, upon any animal;
 - C) Perform any manual procedure for the diagnosis or treatment for sterility or infertility of animals;
 - D) Represent oneself as engaged in the practice of veterinary medicine in any of its branches;
 - E) Offer, undertake or hold oneself out to be able to diagnose, treat, operate or prescribe for any animal disease, pain, injury, deformity or physical condition;
 - F) Use any words, letters or titles in such connection or under such circumstances as to induce the belief that the person using them is engaged

in the practice of veterinary medicine; such use shall be prima facie evidence of the intention to represent oneself as engaged in the practice of veterinary medicine;

- G) Collect blood or other samples for the purpose of diagnosing disease or other conditions. This shall not apply to unlicensed personnel employed by the United States department of agriculture or the Tennessee department of agriculture who are engaged in the brucellosis eradication program or external parasite control program, nor shall it apply to unlicensed personnel who perform laboratory examinations. This section does not prohibit extension personnel or vocational agriculture teachers from doing educational work that is considered normal to their profession; and
 - H) Remove an embryo from a food animal or companion animal for the purpose of transplanting such embryo into another female animal or for the purpose of cryopreserving such embryo. It shall not be considered the practice of veterinary medicine for a person or the person's employees to remove an embryo from such person's own food or companion animal for the purpose of transplanting or cryopreserving such embryo;
- 11) "Preceptor" means a person who is a last year student duly enrolled and in good standing in a recognized college of veterinary medicine. Such person's presence in a practice may be as part of a formal preceptorship program of the person college or as an informal arrangement between the person and a veterinarian licensed by the board. The preceptor must be under direct supervision of such licensed veterinarian;
 - 12) "Responsible supervision" or words of similar purport means the control, direction and regulation by a licensed veterinarian of the duties involving veterinary services which such veterinarian delegates to such veterinarian's personnel;
 - 13) "School of veterinary medicine" means any veterinary school or college, department of a university or college, legally organized, whose course of study in the art and science of veterinary medicine conforms to the standards required for accreditation by the American Veterinary Medical Association and approved by the board;
 - 14) "Temporary license" means temporary permission to practice veterinary medicine issued pursuant to this chapter;
 - 15) "Unprofessional or unethical conduct," among other things, means any conduct of a character likely to deceive or defraud the public, objectionable advertising, obtaining any fee or compensation by fraud or misrepresentation, sharing office space with any person illegally practicing veterinary medicine, employing either directly or indirectly any unlicensed person to practice veterinary medicine or render any veterinary service except as herein provided, or the violation of any rule adopted by the board, which shall provide a code of professional ethics to be followed and carried out by persons licensed under this chapter;
 - 16) "Veterinarian" means a person who has received a doctor's of veterinary medicine degree or its equivalent from an approved school or college of veterinary medicine;

- 17) "Veterinary facility" means:
- A) Animal medical center - A veterinary or animal medical center means a facility in which consultative, clinical and hospital services are rendered and in which a large staff of basic and applied veterinary scientists perform significant research and conduct advanced professional educational programs;
 - B) Clinics - A veterinary or animal clinic means a facility in which the practice conducted is essentially an out-patient type of practice;
 - C) Hospital - A veterinary or animal hospital means a facility in which the practice conducted includes the confinement, as well as the treatment, of patients;
 - D) Mobile facility - A practice conducted from a vehicle with special medical or surgical facilities or from a vehicle suitable only for making house or farm calls. Regardless of mode of transportation, such practice shall have a permanent base of operations with a published address and telephone facilities for making appointments or responding to emergency situations; and
 - E) Office - A veterinary facility where a limited or consultative practice is conducted and which provides no facilities for the housing of patients;
- 18) "Veterinary medicine" includes veterinary surgery, obstetrics, dentistry and all other branches or specialties of veterinary medicine; and
- 19) "Veterinary technician" means a person who is a graduate of a veterinary technology program accredited by the American Veterinary Medical Association.

§63-12-112. License requirement - Qualifications of applicants

- a) Any person wishing to practice veterinary medicine in this state shall obtain a license from the board. It is unlawful for such person to practice veterinary medicine as defined in §63-12-103, unless the person obtains a license, and if the person so practices the person shall be considered to have violated the provisions of this chapter.
- b) The board may admit to examination any applicant who submits satisfactory evidence that the applicant:
 - 1) Is a graduate of a school or college of veterinary medicine approved by the board;
 - 2) Is in good physical and mental health;
 - 3) Is of good moral character;
 - 4) Is a citizen of the United States or Canada, or legally entitled to live within the United States;
 - 5) Subscribes to and will uphold the principles incorporated in the Constitution of the United States; and
 - 6) Has paid the required fee.
- c) Any person holding a license to practice veterinary medicine in this state that is valid on September 1, 1967, is considered to be licensed to practice veterinary medicine under this chapter and is subject to all the provisions thereof.

§63-12-113. Temporary licenses

The board may issue a temporary license to practice veterinary medicine, to be used only under the direct supervision of a licensed veterinarian, upon payment of a fee as set by the board, to:

- 1) A veterinarian who meets all qualifications and requirements pursuant to this chapter and who has applied to take the examination as provided in §63-12-115. Such license shall remain valid until the results of the examinations are made known to the applicant.
 - A) Failure on both examinations will result in immediate termination of the license.
 - (i) If the applicant fails one (1) of the examinations, the applicant may be issued a second temporary license but must continue under direct supervision of a licensed veterinarian and only until the results of the next regularly scheduled examination are known.
 - (ii) If an applicant fails the same examination on two (2) separate testing dates, the applicant may, in the discretion of the board, and upon agreeing to meet any additional requirements of the board, be issued a third temporary license for up to one (1) year, plus the time until the results of the second regularly scheduled examination after issuance of the temporary license are made known.
 - (iii) No applicant shall be allowed to take the same examination more than three (3) times.
 - B) During the validity of the temporary license, the applicant must be under the direct supervision of a licensed veterinarian.
 - C) New graduates applying for such temporary license must provide the name and address of practice of the supervising veterinarian and any other requirements specified by the board in rules and regulations; or
- 2)
 - A) A veterinarian duly licensed according to the laws of another state and who has made application for permanent licensure in Tennessee.
 - (i) A temporary license issued under the provisions of this section shall be valid until the board rules on the applicant's request.
 - (ii) If the board's decision is to issue a license without examination, the temporary license expires on receipt of the permanent license.
 - (iii) If the board's decision is for examination, then the law applies as stated in subdivision (1).
 - B) An applicant who holds a license in another state or states must provide the name or names of such states, meet all qualifications and requirements pursuant to this chapter, provide the name and address of practice of the supervising veterinarian, and meet such other requirements as specified by the board in rules and regulations. All information submitted by an applicant will be subject to verification by the board.

§63-12-119. Penalty for unlicensed practice

Any person who practices or attempts to practice veterinary medicine in this state and makes a charge therefor, without having complied with the provisions of this chapter, commits a Class B misdemeanor for each instance of such practice.

§63-12-124. Denial, suspension or revocation of license - Investigation - Immunity of informants

- a) The board, pursuant to the procedure prescribed herein, has the power to deny, suspend or revoke any license or to otherwise discipline an applicant or licensee who is found guilty by the board of one (1) or more of the following:
- 1) Willful or repeated violation of any provisions of this chapter or any rules of the board;
 - 2) Fraud or deceit in procuring or attempting to procure a license to practice veterinary medicine, or presenting to the board dishonest or fraudulent evidence of qualification, or fraud or deception in the process of examination for the purpose of securing a license;
 - 3) The willful failure to display a license;
 - 4) Fraud, deception, misrepresentation, dishonest or illegal practices in or connected with the practice of veterinary medicine in any of its branches;
 - 5) Willfully making any misrepresentation in the inspection of food for human consumption;
 - 6) Fraudulently issuing or using any health certificate, vaccination certificate, inspection certificate, test chart, or other blank form used in the practice of veterinary medicine to the dissemination of animal disease, transportation of diseased animals or the sale of inedible products of animal origin for human consumption;
 - 7) Fraud or dishonesty in applying, treating or reporting on tuberculin, diagnostic or other biological test;
 - 8) Failure to keep the equipment and premises of the business establishment in a clean and sanitary condition;
 - 9) Refusing to permit the board or any legal representative of the board to inspect the business premises of the licensee during regular business hours;
 - 10) Circulating knowingly untrue, fraudulent, misleading or deceptive advertising;
 - 11) Gross malpractice or a pattern of continued or repeated malpractice, ignorance, negligence or incompetence in the course of veterinary medical practice;
 - 12) Unprofessional or unethical conduct, or engaging in practices in connection with the practice of veterinary medicine which are in violation of the standards of professional conduct, as defined herein or prescribed by the rules of the board;
 - 13) Conduct reflecting unfavorably upon the profession of veterinary medicine;
 - 14) The willful making of any false statement as to material matter in any oath or affidavit which is required by this chapter;
 - 15) Revocation by another state of a license to practice veterinary medicine in that state, in which case the record of such revocation shall be conclusive evidence;
 - 16) Conviction on a charge of cruelty to animals;

- 17) Conviction of a felony under federal or state law involving use, misuse, possession or sale of any controlled substance;
- 18) Conviction of a felony in the courts of this state, or of any other state, territory or country which, if committed in this state, would be a felony;
 - A) The record of conviction in a court of competent jurisdiction shall be sufficient evidence for disciplinary action to be taken as may be considered proper by the board. For the purpose of this chapter, a conviction shall be considered to be a conviction which has been upheld by the highest appellate court having jurisdiction, or a conviction upon which the time for filing an appeal has passed; and
 - B) A record of conviction upon charges which involve the unlawful practice of veterinary medicine, and based upon such record of conviction, without any other testimony, the board may take temporary disciplinary action even though an appeal for review by a higher court may be pending;
- 19) Permitting or allowing another to use the licensee's license for the purpose of treating or offering to treat sick, injured or affected animals;
- 20) Engaging in the practice of veterinary medicine under a false or assumed name, or the impersonation of another practitioner of a like, similar or different name;
- 21) Has been guilty of employing or permitting any person who does not hold a license to practice veterinary medicine in this state to perform work which, under this chapter, can lawfully be done only by persons holding such license and permitted by law to practice veterinary medicine in this state. It shall be conclusively presumed that any unlicensed person, if employed by a licensed person, was employed for such purpose if the unlicensed person has attended any school of veterinary medicine or surgery, accredited or otherwise, for a period of over thirty (30) days;
- 22) Addiction to the habitual use of intoxicating liquors, narcotics or other stimulants to such an extent as to incapacitate the applicant or licensee from the performance of the applicant's or the licensee's professional obligations and duties;
- 23) Professional incompetence;
- 24) Having been adjudged mentally incompetent by a court of competent jurisdiction and the disabilities of such person not having been restored, or the voluntary commitment or admission to a state hospital or other mental institution. The record of adjudication, judgment, order or voluntary commitment is conclusive evidence of such mental illness, and upon receipt of a certified copy of any such adjudication, judgment, order or record of voluntary commitment by the board, it may suspend the license of the person so adjudicated or committed;
- 25) Failure to report, as required by law, or making false report of, any contagious or infectious disease as referred to under the U.S.D.A. standards for accreditation of veterinarians in Tennessee and other states;
- 26) Has been found guilty of using biologicals or other drugs which have deteriorated or after the expiration date of that particular lot or serial number;
- 27) Has been convicted of any crime involving moral turpitude; or
- 28) Dispensing, prescribing, or otherwise distributing any controlled substance or any other drug not in the course of the accepted practice of veterinary medicine.

- A) The board may, on its own motion, cause to be investigated any report indicating that a veterinarian is or may be in violation of the provisions of this chapter.
- B) Any person who in good faith shall report to the board any information that a veterinarian is or may be in violation of any provisions of this chapter shall not be subject to suit for civil damages as a result thereof.

§63-12-133. Exemptions

- a) This chapter shall not be construed as applying to:
 - 1) Students in schools or colleges of veterinary medicine when in performance of duties or actions assigned by their instructors or when working under the immediate supervision of a licensed veterinarian;
 - 2) Any lawfully qualified veterinarian residing in some other state or country when meeting in consultation with a licensed veterinarian of this state;
 - 3) Any veterinarian in the employ of a state agency or the United States government while actually engaged in the performance of the veterinarian's official duties. However, this exemption shall not apply to such person when the person is not engaged in carrying out the person's official duties or is not working at the installations for which the person's services were engaged;
 - 4) Prevent any person or the person's regular employee from administering to the ills and injuries of the person's own animals, including, but not limited to, castration of animals and dehorning of cattle, unless title has been transferred or employment provided for the purpose of circumventing this law;
 - 5) State agencies, accredited schools, institutions, foundations, business corporations or associations, physicians licensed to practice medicine and surgery in all its branches, graduate doctors of veterinary medicine or persons under the direct supervision thereof, which or who conduct experiments and scientific research on animals in the development of pharmaceuticals, biologicals, serums or methods of treatment or techniques for the diagnosis or treatment of human ailments, or when engaged in the study and development of methods and techniques directly or indirectly applicable to the problems of the practice of veterinary medicine;
 - 6) Veterinary aides, nurses, laboratory technicians or other employees of a licensed veterinarian who administer medication or render auxiliary or supporting assistance under the responsible supervision of such licensed veterinarian;
 - 7) Any licensed veterinarian residing near the border of a neighboring state and duly authorized, under the laws thereof, to practice veterinary medicine therein whose practice extends into the limits of this state. However, such practitioner shall not open any office or appoint a place to meet patients in this state;
 - 8) Any person gratuitously treating animals in cases of emergency; provided, that the person does not claim to be a veterinarian or use any title or degree appertaining to the practice thereof;
 - 9) Any merchant or manufacturer selling at the merchant's or manufacturer's regular place of business medicines, feed, appliances or other products used in the prevention or treatment of animal diseases. This shall not be construed to authorize the sale of medicines or biologicals which must be obtained by a prescription from a veterinarian, but shall only include the right to sell those

- medicines which are classified as proprietary and which are commonly known as over-the-counter medicines; or
- 10) Any person advising with respect to or performing acts which the board by rule has prescribed as accepted livestock management practice.
- b) The operations known as “castrating,” and “dehorning,” are not regarded as practicing veterinary surgery, and nothing in this chapter shall be construed to prohibit anyone whomsoever from castrating or dehorning any wild or domestic animal.

§63-12-134. Lien for services

- a) Every licensed veterinarian has a lien on each animal or pet treated, boarded or cared for by the veterinarian while in the veterinarian’s custody and under contract with the owner of such animal or pet for payment of charges for treatment, board or care of such animal or pet. Such veterinarian has the right to retain such animal or pet until such charges are paid.
- b)
- 1) If the charges due for the services named in this section are not paid within ten (10) days after demand therefor on the owner of such animal or pet, in person, or by registered or certified mail with return receipt requested, addressed to the owner at the address given when such animal or pet is delivered, and the receipt has been returned by the United States postal authorities, such animal or pet shall be deemed to be abandoned and the licensed veterinarian is authorized to sell the animal or pet either at public or private sale, and if the veterinarian does not succeed in selling such animal or pet within ten (10) days, then the veterinarian is authorized to dispose of such animal or pet in any manner that the veterinarian deems proper or turn the animal or pet over to the nearest humane society or dog pound in the area for disposal as such custodian deems proper.
 - 2) An animal shall also be considered abandoned by its owner if the owner gives a licensed veterinarian a false address and telephone number and the demand mailed by the licensed veterinarian registered or certified mail, return receipt requested, is returned undelivered. Under the circumstances provided in this subdivision, the licensed veterinarian may consider the animal abandoned when the veterinarian receives notice that the mailed demand is undeliverable, and the licensed veterinarian may dispose of the animal as provided in subdivision (b)(1). As an alternative, the licensed veterinarian may turn the animal or pet over to the nearest humane society or animal control shelter in the area for disposition of the animal as such custodian deems proper without first offering the animal or pet for sale.
- c) The giving of notice to the owners, as provided herein, relieves the licensed veterinarian, or any custodian to whom such animal or pet may be given, of any further liability for disposal.
- d) Failure of the owner of any such animal or pet to receive the demand by registered or certified mail provided for in this section does not render the licensed veterinarian liable to the owner of such animal or pet for the disposal thereof in any manner provided in this section.

- e) When any animal or pet is sold as authorized in this law to satisfy a lien for any of the services enumerated, any moneys realized from the sale, less such charges, and any expenses incurred in making the demand for payment thereof in connection with the sale, shall be paid to the owner of the animal or pet.
- f) No legal proceeding for the enforcement of the lien created by this law is necessary concerning abandoned animals as defined in subsection (b), other than compliance with the requirements herein provided.

§63-12-135. Licensed veterinary technicians – Unauthorized practice

- a) The board shall examine and license veterinary technicians, and has the same authority in the regulation, examination and qualification of licensed veterinary technicians as it has under the provisions of this chapter, for the practice of veterinary medicine and veterinarians.
- b) Any licensed veterinarian may assign to a licensed veterinary technician regularly employed by the veterinarian any task or procedure to be performed for which the veterinarian exercises direct supervision and full responsibility except those procedures requiring professional judgment or skill as prescribed by board rule.
- c) The fees provided in this chapter pertaining to applications, licensing and renewal for veterinarians also apply to licensed veterinary technicians.
- d) It is a Class B misdemeanor for any person to use in connection with the person's name any designation intending to imply that the person is a veterinary technician or a licensed veterinary technician unless the person meets the requirements contained in this chapter.
- e) The board may on its own motion cause to be investigated any report indicating that a licensed veterinary technician is or may be in violation of the provisions of this chapter. Any person who in good faith reports to the board any information that a licensed veterinary technician is or may be in violation of any provisions of this chapter is not subject to suit for civil damages as a result thereof.

§63-12-137. Veterinary practice to be owned by veterinarian – Exemptions

- a) It is unlawful for any licensed veterinarian to practice veterinary medicine as an employee of any person other than a veterinarian duly licensed in this state, or a veterinary facility operated at all times under the direct medical supervision of a veterinarian duly licensed in this state.
- b) No person, corporation or other similar organization, public or private, for-profit or not-for-profit, other than a veterinarian duly licensed in this state, shall own or operate a veterinary facility within this state, except as follows:
 - 1) Any person, corporation or other similar organization, public or private, for-profit or not-for-profit, shall apply for and receive a premises permit before the commencement of operations at the veterinary facility; and
 - 2) The owner of the veterinary facility shall not restrict or interfere with medically appropriate veterinary diagnostic or treatment decisions by the licensed veterinarians employed at the veterinary facility.
- c) The following are exempt from this section:
 - 1) A veterinarian employed by a person, corporation or other similar organization, public or private, for-profit or not-for-profit, to treat such employer's animal(s);

- 2) A veterinarian employed by an official agency of the federal or state government, or any subdivision thereof; and
- 3) A veterinarian employed by any licensed research facility.

§63-12-138. Peer review committees – Immunity – Confidentiality of information

- a) As used in this section, “peer review committee” or “committee” means any committee, board, commission or other entity constituted by any state-wide veterinary medical association, or local veterinary medical association, or local veterinary association for the purpose of receiving and evaluating veterinary acts of other veterinarians or veterinary auxiliary personnel.
- b) Any veterinarian who serves on any peer review committee or on any other committee shall be immune from liability with respect to any action taken by the veterinarian in good faith and without malice as a member of such committee, board, commission or other entity.
- c) Veterinarians, licensed veterinary technicians, and members of boards of directors of any publicly supported or privately supported animal health care facility, or any other individual appointed to any committee, as described in subsection (a), shall be immune from liability to any client, patient, individual or organization for furnishing information, data, reports or records to any such committee or for damages resulting from any decision, opinions, actions and proceedings rendered, entered or acted upon by such committees undertaken or performed within the scope or functions of the duties of such committees, if made or taken in good faith and without malice and on the basis of facts reasonably known or reasonably believed to exist.
- d) All information, interviews, reports, statements, memoranda or other data furnished to any such peer review committee or other entity, and any findings, conclusions or recommendations resulting from the proceedings of such committee or other entity are privileged. The records and proceedings of any such committee or other entity are confidential and shall be used by such committee or other entity and the members thereof only in the exercise of the proper functions of the committee or other entity, and shall not become public record nor be available for court subpoena or discovery proceedings. Nothing contained herein applies to records, documents or information otherwise available from original sources, such records, documents or information not to be construed as immune from discovery or use in any civil proceedings solely due to presentation to the committee.

§63-12-139. Premises permits

- a) Any person who owns or operates any veterinary facility, including mobile clinics, or any other premises where a licensed veterinarian practices or where the practice of veterinary medicine occurs, shall apply for and secure a premises permit from the board prior to the commencement of any services which would subject the provider of those services to licensure under this chapter. Any premises in operation on January 1, 1997, shall register with the board by filling out an application as required by the board.
- b) Any premises at which veterinary services are provided and not owned or leased by a licensed veterinarian on January 1, 1997, shall be inspected prior to the opening of such premises. Upon receipt of the application and payment of the application and

inspection fee established by the board, the board shall cause such premises to be inspected by an authorized agent of the board within thirty (30) days of receipt of the application. Any premises in which a licensed veterinarian operates a practice on January 1, 1997, shall be granted a temporary permit upon submission of the registration required by subsection (a), which temporary permit shall remain in effect until the premises are inspected by the board. Any premises for which a permit has been granted on or after January 1, 1997, shall be inspected by the board within sixty (60) days of any change of ownership or legal responsibility for the premises. If the board is unable to complete any inspection of the premises within the thirty (30) or sixty (60) day time periods prescribed herein, it shall issue a temporary premises permit which shall remain in effect until the inspection required by this section is completed.

- c) A premises permit shall be issued if the premises meet minimum standards established by board rules and regulations as to sanitary conditions and physical plant. In lieu of the above procedures, the board may issue a premises permit upon certification by the applicant that the premises have been inspected and accredited by a recognized organization, the standards of which are found by the board to meet or exceed the minimum standards established by board rules and regulations. All veterinary facilities located in retail establishments shall have an entrance into the permitted premises that is directly on a public street or public parking area and such entrance shall be separate from the entrance used by regular retail customers. For purposes of this chapter, "retail establishment" means any retail store in excess of two thousand five hundred (2,500) square feet that primarily sells goods not related to the practice of veterinary medicine, or any veterinary facility located in an enclosed shopping mall or enclosed shopping center. The costs of any inspection undertaken by the board shall be set by the board and paid, in advance, by the applicant, in addition to the fee established by the board for the premises permit.
- d) Each application for a premises permit submitted by a person not licensed under this chapter shall state the name and address of the licensed veterinarian who will be responsible for the provision of veterinary medicine on the premises. The supervising veterinarian shall be licensed in Tennessee. The applicant shall also include the name(s) and address(es) of the licensee(s) who will be on-site when veterinary medical services are provided. The applicant shall affirm that no veterinary medical services shall be provided without the physical presence of a veterinarian licensed in Tennessee. An application for a premises permit submitted pursuant to this subsection may be denied if any veterinarian submitted by the applicant has been previously disciplined by the board. The holder of a premises permit shall notify the board of any change of ownership or legal responsibility for premises for which a permit has been issued, any change as to the supervising veterinarian for the premises, and any change as to the licensed veterinarian(s) who will be employed to provide veterinary medical services at the premises at least thirty (30) days prior to the effective date of the change unless the change arises from unforeseen circumstances, in which case notice shall be given within five (5) days of the effective date of the change.
- e) The board shall deny any application for a premises permit if the inspection reveals that the premises do not meet the minimum standards established by the board. The

applicant shall pay the inspection fee for each additional reinspection required to determine whether any deficiencies found by the board have been brought into compliance with the minimum standards established by board rules and regulations as to sanitary conditions and physical plant.

- f) Any practitioner who provides veterinary services on a house-call basis and does not maintain a veterinary facility for the receipt of patients shall not be required to secure a premises permit, but must provide for appropriate equipment and facilities as established by the board.
- g) Any practitioner who provides veterinary services solely to agricultural animals and does not maintain a veterinary facility for the receipt of patients shall not be required to obtain a premises permit, but must provide for appropriate equipment and facilities as established by the board.
- h) Mobile large and small animal veterinary clinics operating in more than one (1) location and examining and/or treating animals belonging to multiple clients whose animals are not permanently housed or boarded at that location(s) shall have a premises permit for the mobile facilities that are utilized unless exempted by state or local public health officials. Such mobile clinics shall also specify the locations at which such mobile clinics will operate. Such information shall be considered as part of the application for a premises permit. Any change in the locations at which the mobile clinics will operate shall be reported to the board at least thirty (30) days in advance of the effective date of the change.
- i) The following are exempt from this section:
 - 1) A veterinary facility owned by a person, corporation or other similar organization, public or private, for-profit or not-for-profit, to treat such employer's animal(s);
 - 2) A veterinary facility operated by an official agency of the federal or state government; and
 - 3) A licensed research facility.
- j) The board shall be authorized to employ such persons who may be required, in its discretion, to inspect premises under the jurisdiction of the board. The board shall establish a fee schedule for inspections required under this chapter. An applicant for a premises permit shall remit to the board an application fee which shall be equal to the license fee required of licensed veterinarians. A licensed veterinarian or an applicant for licensure as a veterinarian shall not be required to submit an additional fee for a premises permit but shall be required to submit the required inspection fee, if such licensed veterinarian or applicant also submits an application for a premises permit.

§63-12-140. Operation without permit prohibited - Penalty

- a) It is an offense to knowingly operate a veterinary facility in this state without a premises permit.
- b) A violation of this section is a Class B misdemeanor and each violation constitutes a separate offense.

§63-12-141. Euthanasia of animals – Certificate – Fees – Penalty

- a) The board of veterinary medical examiners, upon submission of a complete application and payment of a fee established by the board, shall issue to any animal control agency which it determines to be qualified, a certificate authorizing the agency to apply to the federal drug enforcement agency, including any successor entity, for a restricted controlled substance registration certificate for the purchase, possession and use of sodium pentobarbital or other drugs as authorized by the board for administration by a certified animal euthanasia technician to euthanize injured, sick or abandoned animals. It is a Class B misdemeanor for any person or entity to use or imply that such person or entity has been granted a certificate as a certified animal control agency unless a certificate has been granted under the provisions of this title.
- b) The board, upon submission of a complete application and payment of a fee established by the board, shall issue to any person who it determines to be qualified, a certificate for such person to function as a certified animal euthanasia technician. It is a Class B misdemeanor for any person or entity to use or imply that such person or entity has been granted a certificate as a certified animal euthanasia technician unless a certificate has been granted under the provisions of this title.
- c) Euthanasia of animals. Euthanasia of animals in a certified animal control agency may only be performed by a licensed veterinarian, including a licensed veterinary technician employed by and functioning under the direct supervision of a licensed veterinarian, or a certified animal euthanasia technician as provided by law. A certified animal control agency which employs a certified animal euthanasia technician may purchase, possess and administer sodium pentobarbital or such other drug which the board may approve for the euthanasia of animals. Sodium pentobarbital and such other drugs approved by the board shall be the only drugs used for the euthanasia of animals in a certified animal control agency.
- d) Renewal of Certification. Certified animal control agencies and certified animal euthanasia technicians shall be required to renew their certificates at such intervals, upon such conditions and upon the payment of such fees as may be established by the board.

§63-12-142. Immunity for certain emergency treatment

Any licensed veterinarian, or ancillary veterinary personnel employed by and working under the direct supervision of a licensed veterinarian, who, in good faith, at such person's own initiative, renders emergency treatment to an ill or injured animal gratuitously and without making charge for such treatment, is not liable to the owner of the animal for any civil damages arising from the treatment provided to the animal except in cases of gross negligence. If the licensed veterinarian, or ancillary veterinary personnel acting under the direct supervision of a licensed veterinarian, performs euthanasia on an animal it is presumed that it was a humane act necessary to relieve pain and suffering.

§65-6-301. Cattle guards on unfenced track

Each railroad company whose unfenced track passes through a field or enclosure is required to place a good and sufficient cattle guard or stops at the points of entering such field or enclosure, and keep the same in good repair.

§65-6-302. Enlargement of unfenced area

In case a field or enclosure through which such unfenced railroad track passes shall be enlarged or extended, or the owner of the land over which such unfenced track passes shall open a field so as to embrace the track of such railroad, such railroad company is required to place good and sufficient cattle guards or stops at the margin of such enclosure or fields, and keep the same in repair; provided, that such owner shall give the nearest or most accessible agent of such company thirty (30) days' notice of such change.

§65-6-303. Penalty for noncompliance

Any railroad company neglecting or refusing to comply with the provisions of this part shall be liable for all damages sustained by anyone by reason of such neglect or refusal; and, in order for the injured party to recover all damages such person sustained, it shall be only necessary for such person to prove such neglect or refusal, and the amount of such damages; provided, that such company shall not be liable if it shall be shown that the opening of such field was made capriciously and with intent to annoy and molest such company.

§65-12-108. Precautions required for prevention of accidents

In order to prevent accidents upon railroads, the following precautions shall be observed:

- 1) The officials having jurisdiction over every public road crossed by a railroad shall place at each crossing a sign, marked as provided by §65-11-105. The county legislative body shall appropriate money to defray the expenses of the signs. The failure of any engine driver to blow the whistle or ring the bell at any public crossing so designated by either the railroad company or the public official shall constitute negligence with the effect and all as set forth in §65-12-109;
- 2) On approaching every crossing so distinguished, the whistle or bell of the locomotive shall be sounded at the distance of one fourth (1/4) of a mile from the crossing, and at short intervals until the train has passed the crossing;
- 3) Every railroad company shall keep the engineer, fireman, or some other person upon the locomotive, always upon the lookout ahead; and when any person, animal, or other obstruction appears upon the road, the alarm whistle shall be sounded, the brakes put down, and every possible means employed to stop the train and prevent an accident;
- 4) It is unlawful for any person operating a railroad to use road engines without having them equipped with an electric light placed on the rear of the engine, tank, or tender, which light shall be a bull's eye lens of not less than four inches (4") in diameter with a bulb of not less than sixty (60) watts power, so that such road engine can be operated with safety when backing and the light so placed shall be burning while any such engine may be used in any backing movement. Such lights shall be operated at night; and any person violating any of these provisions

shall be fined the sum of not less than twenty-five dollars (\$25), and not more than one hundred dollars (\$100), for each offense.

§65-12-109. Violation of §65-12-108 is negligence per se

A violation of any of the provisions of §65-12-108 by any railroad company constitutes negligence per se and in the trial of any causes involving §65-12-108, the burden of proof, the issue of proximate cause, and the issue of contributory negligence shall be tried and be applied in the same manner and with the same effect as in the trial of other negligence actions under the common law in Tennessee.

§65-12-114. Standard of care required when livestock on tracks

Whenever livestock appears on the tracks as an obstruction ahead of a railroad train, it shall be the duty of the engineer, or the person in charge of the operation of the train, to blow the alarm whistle and apply the brakes, in order to prevent, if reasonably possible, the striking of the livestock.

§66-7-104. Physically disabled persons' access to housing accommodations

- a) Totally or partially blind persons and other physically disabled persons shall be entitled to full and equal access, as other members of the general public, to all housing accommodations offered for rent, lease or compensation in this state, subject to the conditions and limitations established by law and applicable to all persons.
- b) "Housing accommodations" means any real property or portion thereof which is used to occupy or is intended, arranged or designed to be used or occupied, as the home, residence or sleeping place of one (1) or more human beings, but does not include any single family residence, the occupants of which rent, lease or furnish for compensation not more than one (1) room therein.
- c) Nothing in this section shall require any person renting, leasing, or providing for compensation any real property to modify such property in any way or manner or to provide a higher degree of care for a totally blind or partially blind person or other physically disabled person than for a person who is not blind or disabled.
- d) Every totally blind or partially blind person who has a guide dog, or who obtains a guide dog, shall be entitled to full and equal access to all housing accommodations, included within subsection (a) or any accommodations provided for in §§71-4-201, 71-4-202 and this section, and such person shall not be required to pay extra compensation for such guide dog, but shall be liable for any damages done to the premises by such animal.

§66-7-106. Leasing to blind persons

- a) Any legally blind person in this state whose loss of sight necessitates a dog guide for mobility purposes, which has been obtained from a recognized school of training for such purposes, may not be denied the right to lease an apartment or other types of dwellings as a consequence of having a dog guide.
- b) Because the dog guide is essential to the mobility of its master, no deposit may be required to be paid, with respect to the dog, by the legally blind person to the owner, manager, landlord or agent of any such attendance.

- c) No restrictions may be imposed upon the legally blind person regarding the whereabouts of the animal so long as its master is in attendance.
- d) Any owner, manager, landlord or agent who refuses to lease living space to any legally blind person because of such a dog guide, or violates a provision of this section, commits a Class C misdemeanor.

§66-20-101. Pasturage lien

When any horse or other animal is received to pasture for a consideration, the farmer shall have a lien upon the animal for the farmer's proper charges, the same as the innkeeper's lien at common law; and in addition the farmer shall have a statutory lien for six (6) months.

§66-20-102. Lien on female for service of male

Where the lien for pasturage shall occur in virtue of §66-20-101, the charges shall include also those for the service of any jack, bull, ram, or boar; provided, that the charge for the service of such animal to the female shall have been agreed upon between the parties. The provisions of this section shall likewise include the service of any stud or stallion.

§66-20-103. Livery stable keeper's lien

Livery stable keepers shall be entitled to the same lien provided for in §66-20-101 on all stock received by them for board and feed, or vehicle kept and/or conditioned, until all reasonable charges are paid.

§66-20-104. Lien on offspring for service of male

Any person keeping a jack, bull, ram, or boar, for public use, shall have a lien on the offspring of the same for the season charge to be paid. The provisions of this section shall likewise include the service of any stud or stallion.

§66-20-105. Duration of lien on offspring

The lien provided for in §66-20-104, so far as it affects the offspring of jacks and bulls shall exist for two (2) years from the birth of such offspring and so far as it affects rams and boars shall continue for twelve (12) months from the birth of such offspring. The provisions of this section shall likewise include the service of any stud or stallion.

§66-20-106. Commercial feed lot proprietors' and operators' lien

Commercial feed lot proprietors and operators shall be entitled to the same lien provided for in §66-20-101 on all livestock received by them covering all reasonable charges in caring for, boarding, feeding, or pasturing such livestock, until the same have been paid.

§66-20-107. Lien on female and offspring for artificial insemination

- a) When any female animal is inseminated by artificial means for a fee, the person providing the service shall have for a charge a lien on the female and on any offspring resulting from such service.
- b) The duration of the lien on offspring shall be for twelve (12) months from the date of birth of such offspring.

§67-4-708. Classifications

Businesses, vocations and occupations which are taxable are set forth in the following classifications; provided, that each person shall be classified according to the dominant business activity:

- 3) Classification 3.
 - A) Each person engaged in the business of making sales of the following:
 - xi) Architectural supplies, artists' paints and supplies, artificial flowers, awnings, baby carriages, bait, banners, binoculars, coins, electric razors, fireworks, flags, gemstones, hearing aids, leather goods, luggage, optical supplies except for prescription eye-ware, including eyeglasses, contact lenses and other related tangible personal property, dispensed by an ophthalmologist or optometrist in conjunction with professional services rendered to patients, orthopedic and artificial limbs, pet foods, pets, piers and floats, rock and stone specimens, rubber stamps, stamps, swimming pools, telescopes, tents, theatre programs, trophies, trunks, typewriters, toupees, wiglets and wigs;

§67-4-712. Exemptions

- c)
 - 1) The gross sales made in this state of livestock, horses, poultry, nursery stock and other farm products direct from the farm are exempt from the tax levied by this part; provided, that such sales are made directly by the producer, breeder, or trainer. When sales of livestock, horses, poultry, or other farm products are made by any person other than the producer, breeder or trainer, they shall be classed and taxed under the provisions of §67-4-708(4).
 - 2) No provision of this part shall apply to catfish farmers.

§67-4-2008. Exemptions

- a) There shall be exempt from the payment of the excise tax levied under this part the following:
 - 6) Limited liability companies, limited partnerships, and limited liability partnerships if all of the following criteria are met:
 - A) At least sixty-six and sixty-seven hundredths percent (66.67%) of the activity of the entity is either farming or the holding of one or more personal residences where one (1) or more of the members or partners reside. For purposes of this subdivision (a)(6)(A), the following provisions shall apply:
 - i) "Farming" is the growing of crops, nursery products, timber or fibers, such as cotton, for human or animal use or consumption or the keeping of horses, cattle, sheep, goats, chickens or other animals for human or animal use or consumption or the keeping of animals that produce products, such as milk, eggs, wool or hides for human or animal use or consumption;
 - ii) For this purpose, the activity of the entity shall be considered farming only if at least sixty-six and sixty-seven hundredths percent (66.67%) of its income, including capital gains from the sale of assets used in farming, is derived from farming and at least sixty-six and sixty-seven hundredths percent (66.67%) of its assets, valued at original cost to the entity, are used

by the owner or by the owner's lessee or sharecropper for farming. In the event that an asset's original cost to the entity cannot be determined, or there is no original cost to the entity, for purposes of this subdivision (a)(6)(A), the property shall be valued at its fair market value at the time of acquisition by the entity;

- iii) A "personal residence" or "personal residences," as used in subdivision (a)(6)(A), includes acreage contiguous to the dwelling;
- iv) Any entity that qualifies for franchise tax exemption under this subdivision (a)(6), because of farming activity or because the property has been used as a personal residence for at least five (5) years, shall remain exempt for one (1) year from the end of the calendar year in which it ceases to qualify for the exemption, but only with regard to property and transactions related to property that it held at the time that it last qualified for the exemption. Net worth resulting from sales and other transactions involving real, tangible, or intangible property acquired by the entity after it ceased to qualify for the exemption (after-acquired property) shall be subject to the franchise tax. After-acquired property shall be included in the entity's franchise tax minimum measure. If the entity computes an apportionment formula, any after-acquired property and any compensation or gross receipts related to such property shall be included in the appropriate factors of such formula;
- v) In order to qualify as a personal residence, the dwelling unit must be occupied for personal use by partners or members of the entity for more days than it is rented to others who are not partners or members of the entity. For purposes of this subdivision, the provisions of I.R.C. §280A(d)(2) shall be used to define "personal use;" . . .

§67-5-216. Growing crops

- b)
 - 1) All livestock and poultry of whatever kind in the hands of the producer or the producer's immediate vendee shall be exempt from taxation.
 - 2) "Immediate vendee" is limited to farm use and does not include any person using such products in meat processing.

§67-6-301. Agricultural products

- a) The gross proceeds derived from the sale in this state of livestock, nursery stock, poultry and other farm or nursery products, in any calendar year, directly from a farmer or nurseryman, are exempt from the tax levied by this chapter if fifty percent (50%) or more of such products are grown or produced in the calendar year by such farmer or nurseryman. If less than fifty percent (50%) of such products in any calendar year are grown or produced by the farmer or nurseryman, then only the gross proceeds of the sale in this state of the products actually grown or produced by such farmer or nurseryman shall be exempt from the tax levied by this chapter. When sales of livestock, nursery stock, poultry, or other farm or nursery products are made to consumers, other than as provided herein, they are not exempt from the tax imposed by this chapter.

- b) It is specifically provided that the “use tax,” as defined herein, shall not apply to livestock and livestock products, to poultry and poultry products, to farm, nursery and agricultural products, when produced by the farmer or nurseryman and used by the nurseryman and members of the nurseryman's family.
- c)
 - 2) “Agricultural commodity,” for the purposes of this section, means horticultural, poultry, and farm products, and livestock and livestock products.

§67-6-329. Miscellaneous exemptions [Amended effective July 1, 2004. See the Compiler’s Notes]

- a) [Amended effective July 1, 2004. See the Compiler’s Notes.] 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:
 - 5) Pesticides which are sold for the purpose of aiding in the production of food or fiber, including tobacco, for human or animal consumption. 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;
 - 7) Livestock and poultry feeds, livestock wormers, livestock medication and instruments used for the administration of such medications;
 - 8) Any natural or artificial substance used in the reproduction of livestock, including semen or embryos;
 - 9) 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 such is intended to aid in the growth and development of food or fiber (including tobacco) for human or animal consumption;
- c) No provision of this section shall be construed to amend or repeal the provisions of §67-6-301.

§67-6-330. Amusement tax exemptions [Amended effective July 1, 2004. See the Compiler’s Notes]

- a) [Effective until July 1, 2004. See the Compiler’s Notes.] There is exempt from the sales tax upon admission, dues or fees imposed by §67-6-212 [amusement tax]:
 - 16) Fishing tournament registration fees collected from tournament participants; . . .
 - 18) Any entry fee or charge which allows an entrant to participate in a contest or tournament or charity horse show;

§68-1-101. Department organized into divisions

The department of health shall be organized into the following divisions:

- 7) The division of rabies control, the head of which shall be the director of rabies control;

§68-1-201. Power to quarantine

- a) The commissioner has the power to:
 - 1) Declare quarantine whenever, in the commissioner's judgment, the welfare of the public requires it; and
 - 2) Prescribe such rules and regulations as may be deemed proper for the prevention of the introduction of yellow fever, cholera and other epidemic diseases into the state.
- b) Whenever yellow fever, cholera, smallpox or other epidemic diseases appear in any locality within the state, and information thereof is brought to the knowledge of the department, the commissioner shall prepare and carry into effect such rules and regulations as, in the commissioner's judgment, will, with the least inconvenience to commerce and travel, prevent the spread of the disease.

§68-2-603. Establishment of county health department – County health director – County health officer

- a)
 - 1) Each county shall establish a county health department which shall be headed by, and under the immediate direction of, a county health director.
 - 2) The county health director shall be appointed by the commissioner of health or by the commissioner's designee, act as the administrative officer of the county health department, take actions and make determinations necessary to properly execute the state department of health's programs, and adequately enforce the rules and regulations established by the commissioner and the county board of health. . . .
- d) Any person who undertakes to hold the position of county health officer without being qualified as above provided commits a Class C misdemeanor.
- e)
 - 2) In the absence of an epidemic or immediate threat thereof, any person who shall file with the county board of health a signed, written statement that a specific regulation pertaining to personal medical treatment conflicts with such person's religious tenets and practices, affirmed under penalty of perjury, shall be exempted from such regulation.

§68-8-101. Title

This chapter shall be cited as the "Tennessee Anti-Rabies Law."

§68-8-102. Definitions

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

- 1) "Cat" means all breeds of cats, considered as pets and normally kept around the house, six (6) months or more of age;
- 2) "Director" means the director of the division of rabies control;
- 3) "Dog" means all members of the dog family, three (3) months or more of age;
- 4) "Owner" means any person having a right of property in a dog, or who keeps or harbors a dog, or who has it in such person's care, or acts as its custodian, or who permits a dog to remain on or about any premises; and

- 5) "Vaccination" means the injection of a vaccine for dogs which meets the standards prescribed by the United States department of agriculture for interstate sale.

§68-8-103. Division of rabies control – Created – Director – Personnel

- a)
- 1) The department of health is hereby authorized and empowered to create and maintain a division of rabies control.
 - 2) The commissioner of health, acting for the state, shall appoint or employ a director of the division, who shall preferably be a veterinarian licensed to practice veterinary medicine in the state of Tennessee, and such other personnel of the division as the commissioner may find appropriate to the enforcement of the duties and powers of this chapter and, for this purpose, may spend the funds appropriated to it for rabies control from any source.
- b) The compensation of all employees shall be set by the commissioner with the approval of the commissioner of personnel.
- c) In counties where there is a public health department unit or agency, the administration of this chapter may be through such local health department, unit or agency, but under the direction and supervision of the state department of health.

§68-8-104. Vaccination and registration of dogs and cats – Certificates – Fees – Rabies control fund – Penalty

- a)
- 1) It is unlawful for any person to own, keep or harbor any dog or cat which has not been vaccinated against rabies as required by this chapter or by the rules and regulations promulgated under the authority of this chapter.
 - 2)
 - A) Evidence of such vaccination shall consist of a certificate bearing the owner's name and address, number of the vaccination tag issued, date of vaccination, date the dog or cat shall be revaccinated, description and sex of the dog or cat vaccinated, type and lot number of vaccine administered and the signature of the person administering the vaccine.
 - B) The certificate shall be prepared in triplicate, the original shall be given to the owner, the first copy filed in the office of the local health department and the second copy retained by the person administering the vaccine.
 - C) The rabies certificate form shall be provided by the state department of health or by a licensed veterinarian.
 - 3) All vaccinations shall be administered by or under the supervision of a veterinarian licensed by the state board of veterinary medical examiners to practice veterinary medicine in this state.
- b) In counties where the county legislative body shall pass a resolution by a majority of such body expressly approving the registration of dogs, authorization is hereby granted for the registration of dogs, the collection of registration fees, and the expenditure of these funds as hereinafter provided.
- c)
- 1) All persons owning, keeping or harboring any dog over three (3) months of age shall pay, on or before May 1 of each year, to the county trustee of the county of

- their residence, a registration fee of one dollar (\$1.00) for each dog so owned, kept or harbored. Any county except those having a population in excess of six hundred thousand (600,000), according to the 1970 federal census, or any subsequent federal census, providing for animal registration under this chapter or any other law with a registration fee of more than one dollar (\$1.00) shall provide vaccinations for any animal covered by this chapter at no charge to the owner of such animal.
- 2) Persons operating kennels where dogs are bred for sale shall not be required to pay the above registration fee, but in lieu thereof shall pay on or before May 1 of each year, or at such time as a kennel shall be opened, a registration fee to the county trustee as kennel operator thereof:
 - A) For each kennel of less than ten (10) dogs, five dollars (\$5.00) per year or any fraction thereof;
 - B) For each kennel of not less than ten (10) dogs nor more than twenty (20) dogs, ten dollars (\$10.00) per year or any fraction thereof; and
 - C) For each kennel of over twenty (20) dogs, fifteen dollars (\$15.00) per year or any fraction thereof.

At no time shall the number of dogs in the kennel exceed the number covered by the registration.
- d)
- 1) The county trustee in the county where the dog is kept shall issue a registration certificate on receipt of the registration fee to the owner of the dog, giving the owner's name, date issued, amount paid, description and sex of the dog for which the registration is being issued, the registration tag number issued, the date the dog was vaccinated and the type of vaccine used.
 - 2) The trustee shall deliver a metal registration tag bearing the serial number of the registration certificate and the year in which it was delivered.
 - 3) No dog registration certificate shall be issued unless an unexpired certificate of rabies vaccination is exhibited.
 - 4) No kennel registration certificate shall be issued unless an unexpired certificate of rabies vaccination for each dog to be kept in the clinic is exhibited.
 - 5) It is the duty of the owner of each dog to attach the registration tag to the collar which shall be worn at all times by all dogs registered, and in the event the registration tag is lost, the county trustee shall issue a duplicate tag for a fee of twenty-five cents (25 cent(s)) and the duplicate tag shall be attached to the dog's collar and at all times be worn thereon; provided, that the collar may be removed in case of hunting dogs while in the chase, but nothing contained herein shall authorize the use of an unregistered dog either in the hunt or the chase.
- e)
- 1) All fees for registration as provided herein shall be known as the "rabies control fund" and shall be disbursed by the county trustee in a manner prescribed by the county legislative body only for the payment of salaries of rabies control officers appointed by the local board of health, for the establishment and operation of a dog pound, or for other expenses incidental to the enforcement of this chapter in each county on order of the county executive.

- 2) Any funds remaining at the end of any fiscal year shall be carried over to the next fiscal year, and its expenditure authorized by the county legislative body only for the purpose of rabies control.
- f) Any person failing to have such person's dog or cat vaccinated, or any person failing to have such person's dog registered, as required under the provisions of this chapter, commits a Class C misdemeanor.
- g) In counties of populations of more than sixty-two thousand (62,000) but not in excess of sixty-five thousand (65,000) according to the 1970 federal census or any subsequent federal census, the duties of the county trustee hereinabove set out shall be performed by the rabies control officer, in which case the rabies control officer shall post a bond sufficient in amount to assure that funds collected by the rabies control officer are properly administered and paid over to the county trustee.

§68-8-105. Commissioner to promulgate rules and regulations

It is the duty of the commissioner of health to promulgate such rules and regulations pertaining to the vaccination of dogs against rabies as may be deemed necessary for the proper enforcement of the provisions of this chapter.

§68-8-106. Programs exempt from operation of chapter

- a) Any county or municipality maintaining a program for the control of rabies shall be exempt from the operation of this chapter so long as such rabies program is maintained in conformity with this chapter.
- b) This chapter shall not apply to any county which now has or hereafter may enact private legislation governing the control of rabies in that county.

§68-8-107. Rabies tag must be worn

Every dog owner shall attach a metal tag or other evidence of vaccination to a collar which shall be worn at all times by the dog vaccinated; provided, that the collar may be removed in the case of hunting dogs while in chase or returning from the chase. But nothing herein shall be construed as permitting the use of an unvaccinated dog in either the hunt or chase.

§68-8-108. Harboring or owning unvaccinated dog or permitting to run at large without tag a misdemeanor

It is a Class C misdemeanor for any person to own, keep or harbor any dog which has not been vaccinated pursuant to the requirements of this chapter, or to permit any dog or dogs to run at large at any time not wearing a vaccination tag except as otherwise provided by this chapter.

§68-8-109. Seizure of dogs running at large – Redemption by owner

- a) Any dog found running at large may be seized by the proper health officers or by any peace officer and placed in a dog pound in counties or cities where a dog pound is available.
- b)
 - 1) If the dog is wearing a tag, the owner shall be notified by a postcard addressed to the owner's last-known mailing address to appear within five (5) days and redeem

- the owner's dog by paying a pound fee of one dollar and fifty cents (\$1.50), or the dog will be destroyed.
- 2) If the dog is not wearing a tag, the dog shall be destroyed, unless legally claimed by the owner within two (2) days.
 - c) No dog shall be released in any event from a pound unless and until it has been vaccinated and a tag placed on its collar.

§68-8-110. Transportation of dogs through state unaffected

This chapter shall not be held to prohibit transportation of dogs through the state; provided, that the dogs are securely confined or kept upon a leash during their transportation through the state.

§68-8-111. Confining or isolating dog or cat upon suspicion of rabies [Effective until June 30, 2005.]

If any dog or cat has bitten any person or is suspected of having bitten any person or is for any reason suspected of being infected with rabies, the county health department or state department of health may cause the dog or cat to be confined or isolated for such time it deems necessary.

§68-8-112. Concealing dog kept in violation of this chapter a misdemeanor

Any person who hides, conceals or aids or assists in hiding or concealing any dog owned, kept or harbored in violation of any of the provisions of this chapter commits a Class C misdemeanor.

§68-8-114. Enforcement of provisions by department of health and peace officers

It is the duty of the department of health and all peace officers to enforce the provisions of this chapter, and the department has the authority to employ or appoint all necessary personnel for the proper enforcement thereof.

§68-8-115. Liability for rabies program site

Any licensed veterinarian who provides services to vaccinate animals against rabies, which is sponsored by a county health department or municipality in accordance with this chapter, shall not by such participation assume any responsibility or liability for the supervision of the site or location where the rabies program is conducted, which responsibility and liability shall be borne by the sponsoring county or municipality.

§70-1-101. Definitions – Construction of dates and provisions

- a) As used in chapters 1-8 of this title, unless the context otherwise indicates, the definitions and rules of construction in this section shall govern the construction of chapters 1-8 of this title, and proclamations and rules and regulations made or adopted by the commission:
 - 1) "Agency" means the wildlife resources agency;
 - 2) "Angling" means any effort made to take, kill, injure, capture, or catch any fish and every act of assistance in any effort;

- 3) "Bag limit" means the maximum number of wildlife other than fish which may be taken, caught, killed, or possessed, by any person for any particular period of time, as provided by rule and regulation adopted by the commission;
- 4) "Big game" means deer, bear, wild hog, wild turkey, and all species of large mammals that may be introduced or transplanted into this state for hunting;
- 5) "Bullfrog" means jumbo frog (*rana catesbiana*);
- 6) "Carcass" means the dead body of any wildlife or a portion of any such dead body;
- 7) "Chumming" means placing fish, parts of fish, or other material upon which fish might feed, in the waters of this state for the purpose of attracting fish to a particular area in order that they may be taken, but "chumming" does not include angling;
- 8) "Commission" means the wildlife resources commission, and "commissioner" means a member of the wildlife resources commission;
- 9) "Creel limit" means the maximum number of fish which may be taken, caught, killed, or possessed, by any person for any particular period of time, as provided by rule and regulation adopted by the commission;
- 10) "Cushion-hold trap" means an approved trap of the spring-loaded type with offset jaws designed to capture an animal by closing upon one (1) of its legs and which is so constructed that the edges designed to touch the animal are composed of a nonmetallic substance which eliminates or mitigates injury to the trapped animal. Specific traps and sizes within this definition shall be identified by the commission in its annual hunting proclamation;
- 11) "Executive director" means the executive director of the wildlife resources agency;
- 12) "Falconry" means hunting by means of a trained raptor;
- 13) "Fish" means all species of trout, salmon, walleye, northern pike, bass, crappie, bluegill, catfish, perch, sunfish, drum, carp, sucker, shad, minnow, and such other species of fish that are presently found in the state or may be introduced or transplanted into this state for consumptive or nonconsumptive use;
- 14) "Fishing" means any effort made to take, kill, injure, capture, or catch any fish and every act of assistance in any effort;
- 15) "Fur bearer" means beaver, raccoon, skunk, groundhog, coyote, gray fox, red fox, mink, muskrat, otter, weasel, bobcat, and opossum, and all subspecies or variations of the foregoing, and any other animals that may be declared by the commission under regulation to be a fur bearer;
- 16) "Game birds" means all species of grouse, pheasant, woodcock, wilson snipe, crow, quail, waterfowl, gallinules, rails, mourning dove, and all species of birds that may be introduced into this state for hunting;
- 17) "Harvest tag" means the certificate which is required either by law or rule or regulation of the commission to be secured to the carcass of wildlife as evidence of legal taking and ownership;
- 18) "Hours" means the hours of the day or night when wildlife may be taken lawfully;
- 19) "Hunting" means chasing, driving, flushing, attracting, pursuing, worrying, following after or on the trail of, searching for, trapping, shooting at, stalking, or lying in wait for, any wildlife, whether or not such wildlife is then or subsequently

- captured, killed, taken, or wounded and every act of assistance to any other person, but “hunting” does not include stalking, attracting, searching for, or lying in wait for, wildlife by an unarmed person solely for the purpose of watching wildlife or taking pictures thereof;
- 20) “Motor vehicle” means any self-propelled vehicle, and any vehicle propelled or drawn by a self-propelled vehicle, wherever operated, but does not include any vessel;
 - 21) “Nongame birds” means all species of birds not classified as game birds;
 - 22) “Nongame mammal” means all species of wild mammals not classified as big game, small game, or fur bearers. Domestic dogs and cats when running at large and apparently unclaimed and not under human control, whether licensed or unlicensed, shall come within the provisions of this subdivision for control and regulation by law or commission rule or regulation not inconsistent with Rabies Control Law, to the extent such dogs and cats are endangering or harassing wildlife;
 - 23) “Nonresident” means any person who is not a resident;
 - 24) “Person” means an individual, association, partnership, or corporation;
 - 25) “Personally attended rod or line” means a rod or line that is used for fishing or angling, and which is under the personal control of a person who is in proximity to such rod or line;
 - 26) “Possession” means both actual and constructive possession, and any control of the object or objects referred to;
 - 27) “Possession limit” means the maximum limit in number or amount of wildlife which may be lawfully in the possession of any one (1) person;
 - 28) “Public hunting area” means a specific land and/or water area not intensively managed that is established for the protection of wildlife species and public use by both consumptive and nonconsumptive users;
 - 29) “Public road” means the traveled portion of, and the shoulders on each side of, any road or highway maintained for public travel by a county, city, city and county, the state, or the United States government, and includes all bridges, culverts, overpasses, fills, and other structures within the limits of the right-of-way of any such road or highway;
 - 30) “Raptor” means all birds found in the wild that are members of the order of falconiformes, strigiformes, and specifically, but not by way of limitation, means falcons, hawks, owls, and eagles, except the golden and bald eagle;
 - 31) “Refuge” means a specific land and/or water area that is established for the protection of one (1) or more species of wildlife with no, or limited forms of, consumptive uses, and limited nonconsumptive use to the degree compatible with desired wildlife protection;
 - 32) “Resident” means any person who resides in this state for a period of ninety (90) consecutive days with the genuine intent of making this state that person’s place of permanent abode, and who, when absent, intends to return to this state. For the purposes of this subdivision, the following are deemed residents of this state:
 - A) Members of the armed services of the United States or any nation allied with the United States, who are on active duty in this state under permanent orders;

- B) Personnel in the diplomatic service of any nation recognized by the United States, who are assigned to duty in this state; and
 - C) Students who are attending and have been enrolled at least six (6) months in any school, college, or university in this state;
- 33) "Sell" includes the offering or possessing for sale, bartering, exchanging or trading;
 - 34) "Small game" means fur bearers, game birds, swamp rabbits, bullfrogs, cottontail rabbits, fox squirrels, gray squirrels, red squirrels, and all species of small mammals and birds that may be introduced into this state for hunting;
 - 35) "Snagging" means fishing, without the use of either bait or artificial lure or any other device designed to attract fish, by snatching with hooks, gang hooks, or similar devices;
 - 36) "State fishing area" means a body of water where environmental conditions are such that relatively high fish production is possible and where fishing is the principal public use of the water;
 - 37) "Transport" means to carry or convey from one place to another, and includes an offer to transport, or receipt or possession for transportation;
 - 38) "Trapping" means taking, killing, and capturing wildlife by the use of any trap, snare, deadfall, or other device commonly used to capture wildlife, and the shooting or killing of wildlife lawfully trapped, and includes all lesser acts such as placing, setting, or staking such traps, snares, deadfalls, and other devices, whether or not such acts result in taking of wildlife, and every attempt to take and every act of assistance to any other person in taking or attempting to take wildlife with traps, snares, deadfalls, or other devices;
 - 39) "Waters of the state" means any waters within the territorial limits of the state of Tennessee;
 - 40) "Wild bird" means all game birds, nongame birds, and raptors;
 - 41) "Wildlife" means wild vertebrates, mollusks, crustaceans, and fish;
 - 42) "Wildlife management area" means a specific land and/or water area that is established for the intensive management of both habitat and wildlife species for optimum enhancement and use by both consumptive and nonconsumptive users; and
 - 43) "Zoological institution" means the institution operated and funded wholly or in part by a political subdivision of the state to display wildlife to the public.
- b) Whenever in chapters 1-8 of this title, or proclamation and rules and regulations adopted under chapters 1-8 of this title, the doing of an act between certain dates or from one date to another is allowed or prohibited, the period of time indicated includes both dates specified. The first date specified designates the first day of the period, and the second date designates the last day of the period.
 - c) Every provision relating to any fish or wildlife shall be deemed to apply to any part of the fish or wildlife with the same force and effect as it applies to the whole of any fish or wildlife.

§70-1-201. Creation – Appointment of members – Terms

- a) An independent and separate administrative board of conservation for game, fish and wildlife of the state is created, to be known and referred to as the wildlife resources commission and sometimes hereinafter referred to as the commission, to consist of the commissioner of environment and conservation, the commissioner of agriculture and eleven (11) citizens of the state, which citizens shall be well informed on the subject of the conservation of game animals, birds and fish within the state. Nine (9) of these citizens shall be appointed by the governor, one (1) shall be appointed by the speaker of the senate, and one (1) shall be appointed by the speaker of the house, each to be appointed within the period hereinafter provided. In making appointments to the wildlife resources commission, the governor shall strive to ensure that at least one (1) person serving on the commission is sixty (60) years of age or older and that at least one (1) person serving on the commission is a member of a racial minority. At least two (2) people serving on the commission shall be female.
- b)
 - 1) Each member appointed by the governor shall be confirmed by the house conservation and environment committee and the senate environment, conservation and tourism committee and by joint resolution of the general assembly prior to beginning a term of office.
 - 2) If the general assembly is not in session at the time a member is appointed by the governor to fill a vacancy resulting from the expiration of the term of a member of the commission appointed by the governor, the member of the commission whose term has expired shall serve until a new appointee is confirmed as provided herein.
- c) Three (3) of the members appointed by the governor shall be appointed from each grand division of the state. In the original appointments one (1) member from each grand division was appointed to serve for a period of two (2) years; one (1) member from each grand division to serve for a period of four (4) years and one (1) member from each grand division to serve for a period of six (6) years. Upon the expiration of the term of office of the governor-appointed members of the commission, their successors in office shall be appointed in like manner to serve for a full period of six (6) years. Not more than one (1) member of the commission shall be appointed from any one (1) county.
- d) The terms of the new members appointed by the governor to the commission shall commence March 1, provided such members are properly confirmed.
- e) Terms of speaker-appointed members shall commence March 1. Each speaker appointed member shall serve for a period of two (2) years.

§70-1-206. Duties and functions

- a) The wildlife resources commission is directed and authorized to perform the following duties and functions:
 - 1) Appoint and dismiss the executive director;
 - 2) Approve the budget pursuant to §70-1-306;
 - 3) Promulgate necessary rules, regulations, and proclamations as required under this title and title 69, chapter 10. The commission is also authorized to promulgate

- rules and regulations to permit a licensed trapper to release small game animals in counties contiguous to the counties where the animals were trapped;
- 4) Establish objectives within the state policy which will enable the wildlife resources agency to develop, manage and maintain sound programs of hunting, fishing, trapping and other wildlife related outdoor recreational activities;
 - 5) Establish the salary of the executive director of the wildlife resources agency; and
 - 6) Promulgate rules and regulations for the administration of the Reelfoot Lake natural area, as provided in title 11, chapter 14, part 1.
- b) The wildlife resources commission shall become knowledgeable in and familiar with the special needs of handicapped and disabled veterans.

§70-1-301. Creation – Statement of policy

- a) There is hereby created a wildlife resources agency which shall have full and exclusive jurisdiction of the duties and functions relating to wildlife formerly held by the game and fish commission or of any other law relating to the management, protection, propagation, and conservation of wildlife, including hunting and fishing, except those powers and duties conferred upon the wildlife resources commission as provided in §70-1-206.
- b) It is the policy of the state that the agency shall be nonpartisan and shall place first and foremost the welfare of the wildlife and its environment in the agency's planning and decisions, and to encourage, by every appropriate means, the full development of the state's natural resources to the benefit of all of the citizens of Tennessee, including, but not limited to, the creation of a comprehensive long-range management plan to integrate the wildlife resource agency's efforts and to implement and encourage full utilization of Tennessee's wildlife resources consistent with realistic conservation principles.

§70-1-302. Duties and functions – Agency advertising

- a) The wildlife resources agency is directed and authorized to perform the following duties and functions:
 - 1) Make such expenditures from funds in the wildlife resources fund and the boating safety fund as it deems advisable subject to the provisions of titles 9 and 12, and §70-1-306(c)-(h);
 - 2) Protect, propagate, increase, preserve and conserve the wildlife of this state, and enforce by proper action and proceedings, the existing laws of this state relating thereto;
 - 3) Acquire by purchase, condemnation, lease, agreement, gift or devise, lands or waters suitable for the following purposes and develop, operate and maintain them for these purposes, subject to the provisions of §70-1-306(c)-(h):
 - A) Fish hatcheries and nursery ponds;
 - B) Lands or waters suitable for game, birds, fish, or fur-bearing animal restoration, propagation, protection, management, or for access to such lands or waters;
 - C) Public hunting, fishing or trapping areas to provide places where the public may hunt, trap or fish in accordance with the provisions of law or the regulations of the agency; and

- D) The protection, preservation, and enhancement of Reelfoot Lake and the lands surrounding it;
- 4) Extend and consolidate by exchange lands or waters suitable for the above purposes;
 - 5) Capture, propagate, transport, buy, sell, or exchange any species of game, bird, fish, fur-bearing animal or other wildlife needed for propagation, enforcement or stocking purposes, or to exercise control measures of undesirable species;
 - 6) Enter into cooperative arrangements with farmers and other landowners or lessees for the utilization of lands under their ownership or control for the purpose of protecting, propagating, conserving, restoring, taking or capturing of the wildlife of the state, under such rules and regulations as the agency may prescribe; and
 - 7) Enter into cooperative agreements with educational institutions and state, federal, and other agencies to promote wildlife management and conservation.
- b) The agency may enter into cooperative agreements with the United States Tennessee Valley authority, United States fish and wildlife service, national park service, United States forest service, or with any other federal agency, or with any state for the purpose of regulating fishing, hunting, or trapping in the area under jurisdiction of the federal agencies or the state or in interstate waters, as the case may be. Such regulations shall become effective as soon as they shall have been accepted by all parties to the agreement and as soon as thirty (30) days shall have elapsed from the first publication of such regulations. Agreements involving reciprocal actions relative to wildlife violations shall become effective thirty (30) days after publication in the same manner as is required for proclamations.
- c) The wildlife resources agency may require creel census reports and reports of all fish taken under commercial fishing license and all mussels taken under commercial musseling license for any water or waters designated by it, such reports to be on forms provided by the executive director. This shall apply to license holders, wholesalers and others as required.
- d) The wildlife resources agency shall administer the Reelfoot Lake natural area, as provided in title 11, chapter 14, part 1.
- e) In order to further the public interest in the protection and preservation of wildlife and its habitat, the wildlife resources agency is authorized to participate in the federal wetlands mitigation banking program. Participation includes, but is not limited to, entering into agreements for agency or private development, construction and operation on lands which are affected by the program and which are owned, leased, or controlled in some manner through cooperative arrangement agreement or otherwise by the agency.
- f) The agency may sell advertising in any magazine or other publication of the agency, under terms and conditions to be set by the agency. The revenue generated from such advertising shall be deposited exclusively in the wildlife resources fund provided in §70-1-401. Any person or entity purchasing such advertising shall include an appropriate disclaimer, as determined by and subject to approval of the agency, to ensure that the appearance of such advertising in an agency publication does not constitute, directly or indirectly, any endorsement by the agency of any products, services, companies, organizations, or other matters referenced in the advertising.

- g) The agency may sell the right to include advertising in mailings sent by the agency, including, but not limited to, licenses, under terms and conditions set by the agency; provided, that any advertisers must comply with the disclaimer requirements of subsection (f). The revenue generated from such advertising shall be deposited exclusively in the wildlife resources fund provided in §70-1-401.
- h)
 - 1) The agency is authorized to enter into agreements with landowners or persons who control hunting access to lands to establish deer management assistance plans. The purpose of a plan is to permit a landowner, adjoining landowners, or persons who control hunting access on contiguous lands to achieve deer management goals on the contiguous land through management for the specific needs of deer that may at any point in time cross over the land. Harvests under a particular deer management plan may exceed the normal season harvest in accordance with the plan.
 - 2) General guidelines for implementation of a deer management assistance program shall be developed by rule and regulation. In order to qualify under the program, the total combined contiguous acreage must meet or exceed one thousand (1,000) acres. Further, a deer management assistance permit must be purchased. Permit fees shall be established by rule and regulation. It is the intent in creating this program that it shall be revenue neutral to the agency and the state.

§70-1-401. Wildlife resources fund established

- a) All moneys sent to the state treasury in payment of licenses, advertising, contraband, fines, penalties, and forfeitures arising from the wildlife resources laws of this state shall be set aside. This fund shall constitute a fund known as the “wildlife resources fund” for:
 - 1) The payment of the wildlife resources agency’s necessary and incidental expenses;
 - 2) The payment of the salaries and traveling expenses of the director, office assistants, and other persons appointed or employed by the director;
 - 3) The purchase of lands suitable for wildlife resources farms, reservations, wildlife management areas, fishing areas, access areas, fish hatcheries or rearing ponds;
 - 4) The construction of suitable buildings, ponds, and propagation pens, and the purchase and propagation of wildlife, and other essentials necessary to restock the state or maintain wildlife resources farms, reservations, fisheries and hatcheries;
 - 5) The promotion, advancement and efficient management of wildlife, including educational activities to that end; and
 - 6) Any purpose of or in consequence of this title not otherwise provided for.
- b) No part of the funds realized from the sale of licenses, advertising, from contrabands, fines, penalties, forfeitures, or from any privilege taxes levied under the provisions of this title shall be used for any other purposes than those set out in subsection (a), nor shall any part of the wildlife resources fund be diverted to the general fund or any other public fund. Likewise, interest accruing on investments and deposits of the wildlife resources fund shall be returned to the fund and remain a part of it, and under no circumstances shall such interest be diverted to any other public fund.

§70-1-501. Wildlife management endowment fund established

The general assembly recognizes and reaffirms the importance to the citizens of Tennessee of management, protection, propagation, and conservation of wildlife, including the importance in protecting and preserving for future generations, the heritage of hunting and fishing in the state. Further, the general assembly recognizes the importance of providing the opportunity for citizens to invest in the future of its wildlife resources. Therefore, in order to aid in future funding for the wildlife resources agency to continue establishing and carrying out fish and wildlife programs and to assure protection and preservation for future generations of the heritage of hunting and fishing in the state, there is hereby created a fund known as the “wildlife management endowment fund.”

§70-2-101. Taking wildlife without license – Migratory waterfowl stamps – Licenses nontransferable – Revocation or suspension – Penalties

- a) It is unlawful for any person in this state to hunt, chase, trap, kill or take any form of wildlife in the open season unless the person so hunting, chasing, trapping, killing or taking, or attempting to take, such wild animals, wild birds, wild fowl, or fish at the time possesses the requisite license prescribed by this chapter, such license, of proper color and design, to be on the person of the licensee while hunting, chasing, trapping or fishing.
- b) A valid federal migratory waterfowl stamp must be possessed while hunting migratory waterfowl by any person over sixteen (16) years of age, and which stamp shall be cancelled in ink by the signature of the hunting licensee.
- c) No license or permit, required and issued under this chapter, may be loaned or transferred to any other person, firm or corporation.
- d)
 - 1)
 - A) Upon conviction for any offense against the provisions of this title, any rule or regulation promulgated pursuant to this title, or any proclamation of the wildlife resources commission, the court may revoke the license and/or suspend the fishing, hunting and/or trapping privileges of the person so convicted.
 - B) Any license so revoked shall be surrendered to the court and transmitted to the arresting officer, to be made a part of the prosecution record.
 - 2) Any person whose license has been revoked and/or whose privileges have been suspended may be prohibited from fishing, hunting and trapping for a period of time of not less than one (1) year to be fixed by the court.
- e) Any violation of this section is a Class C misdemeanor and punishable by a fine of not less than ten dollars (\$10.00) nor more than twenty-five dollars (\$25.00). Any person who violates the revocation order of the court may be fined not less than twenty-five dollars (\$25.00) and may be confined in the county jail or workhouse not less than ten (10) days nor more than eleven (11) months and twenty-nine (29) days, it being mandatory upon the court to impose the prison sentence, and the minimum time may not be subject to suspension.

§70-2-103. Exception to licensing requirement – Military personnel on furlough

- a) Any member of the armed forces or services while on furlough or other temporary military leave of absence has the right to hunt and fish in the state of Tennessee during the appropriate seasons therefor as fixed by law, without the necessity of procuring a license.
- b) In order for any person to hunt and fish without the required license, the person shall have in that person's possession at all times a copy of that person's furlough papers or other military orders showing that such person is officially on leave of absence from the military service. Such military papers or orders are subject to examination and inspection by duly constituted officers of the wildlife resources agency at all times.

§70-2-208. Fur Dealers

- a) A fur dealer is any person who, either directly or through another person, engages in the business of buying and selling the pelts or hides of fur-bearing mammals from hunters, trappers, or other fur dealers.
- b) The license fee for a resident or a nonresident fur dealer shall be one hundred dollars (\$100).
- c) Any person, before engaging in the business of buying and selling the pelts or hides of fur-bearing mammals, shall possess the appropriate dealer's license; provided, that a furrier may engage in the business of buying and selling the pelts or hides of fur-bearing mammals without possessing or being required to possess a fur dealer's license. Such pelts or hides may be purchased by the furrier from fur dealers.
- d) Each dealer must file with the agency, periodically, as directed by the executive director, a complete report, on forms provided by the agency, of the activity of the previous reporting period. The report must be completed in its entirety and the dealer must, by signature, certify as to the accuracy.
- e) The commission is authorized to adopt rules and regulations governing the tagging of all pelts or hides of fur-bearing mammals taken.
- f) Each dealer must permit wildlife officers to inspect the inventory of pelts or hides and any records.
- g) Any person violating the provisions of this section commits a Class C misdemeanor. Upon conviction of a second or subsequent offense within a twelve-month period, the person's license shall be revoked for a period of one (1) year. In addition, any person found guilty of engaging in business as herein defined without the necessary licenses shall be sentenced to the county jail or workhouse, which sentence may be suspended if such person shall show to the court that the appropriate licenses have been subsequently purchased.
- h) When used in this section, "person" includes any resident or nonresident individual, association, partnership, corporation or other legal entity including any individual or entity operating in any capacity on behalf of such individual, association, partnership, corporation or other legal entity.

§70-2-209. Raw furs, hides or pelts; crimes and offenses

- a) It is unlawful for any person, firm or corporation to purchase, receive for sale or have in its possession for commercial purposes any green hides, raw furs or pelts of wild animals without first procuring a license, except as provided in §70-2-208.

- b) Any violation of this section is a Class A misdemeanor.

§70-2-212. Stocking wildlife

- a) Stocking of wildlife is declared to be a prerogative of the state. All persons desiring to stock wildlife shall first obtain a permit from the executive director. Such a permit will be issued free of charge. Applications for such fish from the United States fish and wildlife service, when approved by the wildlife resources agency, shall be considered a sufficient permit for the purpose of this section.
- b) The wildlife resources agency has the power to inspect all live fish entering the state, regardless of their source, and to destroy any shipment found to be diseased without incurring any liabilities for so doing.
- c) The agency is authorized to impose reasonable charges to defray expenses for stocking fish in private ponds. The charges may reflect the agency's costs for raising and transporting the fish together with other associated costs.

§70-2-213. Scientific purposes; requirement; crimes and offenses

- a) The executive director has the power, at the executive director's discretion, to grant permission, under the executive director's seal, to any reliable person to take, capture and transport in Tennessee, wild birds, and nests and eggs thereof, and wild animals and fish, when taken and used for purely scientific purposes. The permit so issued shall continue in force for one (1) year after date of issue and shall specify the number of any species to be taken under the permit.
- b) Each person receiving a permit under the provisions of this section shall report to the wildlife resources agency on blanks furnished by it, at or before the expiration of such permit, the number and disposition of the collections made thereunder.
- c) Any person taking any wildlife in violation of the provisions of this section or of the permit held by that person shall be, upon conviction, fined not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100) and the permit held by that person shall become void.

§70-2-214. Hunting dogs; training; requirements; crimes and offenses

- a) Any resident or nonresident who trains hunting dogs in this state shall purchase the appropriate hunting license except when such person is competing in recognized field trials.
- b) Raccoon dog field trials, retriever dog field trials, bird dog field trials, rabbit dog field trials, and foxhound field trials will be permitted only under rules and regulations promulgated by the wildlife resources commission. The wildlife resources commission is authorized to make all such rules and/or regulations in connection with the field trials as it may deem necessary to carry out the provisions of this section.
- c) Any violation of the provisions of this section, or any violation of any rule or regulation promulgated by the wildlife resources commission pursuant to the provisions of this section, is a Class C misdemeanor and, upon conviction thereof, shall be punishable by a fine of not less than twenty-five dollars (\$25.00) nor more than fifty dollars (\$50.00).

§70-2-222. Mussels; export payment; crimes and offenses

- a) Any person, firm or corporation who purchases or otherwise obtains freshwater mussels taken from Tennessee waters shall pay to the Tennessee wildlife resources agency the amount equal to \$0.0145 per pound of mussel shells or \$.0124 per pound of mussels (shell with meat) purchased or obtained.
- b) The payment to the agency shall be calculated from receipts filled out by the buyer for each transaction. A copy of each receipt will be given to the seller and a copy retained by the buyer, and shall be made available by the buyer for inspection by agents of the agency or the office of the comptroller of the treasury for a period of two (2) years. When mussels are sold without first going through a buyer, the method of payment shall be as described in proclamations promulgated by the wildlife resources commission. For purposes of this section, a “buyer” is any person, firm or corporation who buys or otherwise obtains mussels from mussel harvesters or other mussel buyers either for use within the state or for exporting from Tennessee.
- c) Payments from buyers shall be made monthly, and must be received by the agency no later than the fifteenth day of the following month.
- d) Revenue from this section shall be used for mussel management, research, and enforcement. However, no more than twenty-five percent (25%) of the total revenue shall be spent on enforcement.
- e) A violation of this section is a Class A misdemeanor.

§70-4-101. Wildlife; state ownership

- a) The ownership of and title to all forms of wildlife within the jurisdiction of the state, as are not individual property under the laws of the land, are hereby declared to be in the state. No wildlife shall be taken or killed in any manner or at any time except the person or persons so taking or killing the wildlife shall consent that the title thereto shall be and remain in the state for the possession, use and transportation thereof after such taking or killing as set forth in this chapter.
- b) The taking or killing of any and all forms of wildlife at any time, in any manner, and by any person, shall be deemed a consent on the part of such person that the title to such wildlife shall be and remain in the state for the purpose of regulating the possession, use, sale and transportation of the wildlife for the public welfare.

§70-4-102. Crimes and Offenses

- a) It is unlawful for any person to hunt, kill, trap, ensnare, or destroy, or to attempt to hunt, kill, trap, ensnare, or destroy, or to have in such person’s possession any form of wildlife except subject to the restrictions and by the means and devices and at the time prescribed by this title.
- b) Any violations of the proclamations and rules and regulations proclaimed by the wildlife resources commission are punishable as provided in this title, and the illegal taking or possession of each bird, animal or fish constitutes a separate offense.
- c) A violation of this section is a Class B misdemeanor.

§70-4-103. Fox hunting; training hunting dogs; crimes and offenses

- a)
 - 1) Foxes may be chased with dogs the entire year, except during such periods as may be fixed by the wildlife resources commission for the protection of the species.
 - 2) It is unlawful to take or kill foxes in Washington County.
 - 3) Any person who hunts and kills a fox in a manner other than as permitted by this subsection commits a Class C misdemeanor.
- b) Fox hounds, rabbit dogs and bird dogs may be trained the entire year, except during such periods as may be fixed by the commission for the protection of the species, but any person accompanying the dogs or training them shall not possess any firearm, bow and arrow, or any other such device, except during the regular open season.

§70-4-104. Fishing; rules and regulations

Fish may be taken with rod and reel, by hook and line held in the hand while fishing, or by one (1) or more trotlines not having a combination of more than one hundred (100) hooks, and which trotline shall be attended at least once each day. Use or possession of any other instrument for the killing, catching, or taking of fish or other aquatic life is expressly forbidden, except as provided for in this title or as permitted by regulations made under authority granted the wildlife resources commission under this title.

§70-4-105. License holders; possession of wildlife; crimes and offenses

- a) Wild animals, wild birds, or wild fowl lawfully taken may be possessed by legal license holders during any open season therefor, designated pursuant to the terms of §70-4-107(b)-(d), but no person shall have in possession and/or in storage, during any open season or at any other time, more than the possession limit prescribed by the wildlife resources commission.
- b) Any person violating the provisions of this section commits a Class C misdemeanor.

§70-4-106. Landowners; permission; posting property; crimes and offenses

- a)
 - 1) It is unlawful for any person to hunt, take, chase, trap or kill any wild animal, wild bird, wild fowl or fish, upon the land of another without having first obtained the permission or approval of the owners of the land, or of the person or persons in charge of the land and having authority from the owner to give such permission.
 - 2) A violation of this subsection is a Class C misdemeanor. Upon conviction for any violation of this subsection, the court may revoke the license of the person so convicted. Any license so revoked shall be surrendered to the court and transmitted to the arresting officer, to be made a part of the prosecution record.
- b)
 - 1) A) Notwithstanding the provisions of subsection (a), it is unlawful for any person to hunt, take, chase, trap or kill any game as defined in §70-1-101 upon lands posted with signs approved by the wildlife resources agency bearing the language "Hunting By Written Permission Only" and bearing the name of the landowner or the person in possession or control of such lands, without having

first obtained the written permission of or being accompanied by the landowner or the person in possession or control of such lands and having authority from the owner to give such permission. Every person who hunts, takes, chases, traps or kills any game on such lands shall have such written permission in immediate possession at all times and shall display the same upon demand of an officer of the wildlife resources agency, sheriff or other peace officer charged with the enforcement of the laws of this state. Written permission shall not be required of the landowner, the landowner's dependents, the person in possession or control of such lands, or the dependents of the person in possession or control of such lands.

- B) The signs posted pursuant to this subsection must be posted by either of the following methods:
 - (i) The signs must be visible at all major points of ingress and at one hundred yard (100 yd.) intervals on the perimeter of the lands being posted; or
 - (ii) The signs must be visible at all major points of ingress and at two hundred fifty yard (250 yd.) intervals on the perimeter of the lands being posted accompanied by fluorescent visual markings. Such fluorescent visual markings must be at least one inch (1") wide and four (4") inches long and shall be at fifty-yard (50 yd.) intervals including the two hundred fifty yard (250 yd.) interval where signs are placed. The division of forestry, in cooperation with the department of agriculture and the wildlife resources agency, shall determine a unique universal paint color or colors to be used for these property boundary markings.
 - C) Any person who posts signs pursuant to this subsection without authorization from the landowner is subject to the penalties imposed by subdivision (b)(2).
- 2)
- D) A violation of this subsection is a Class C misdemeanor. Upon conviction for any violation of this subsection, the court may revoke the license of the person convicted. Any license so revoked shall be surrendered to the court.
 - E) The provisions of this subsection are enforceable and may be prosecuted by all officers of the wildlife resources agency, sheriffs and other peace officers charged with the enforcement of the laws of this state.
 - F) An affidavit from the landowner or the person in possession or control of such lands stating that the property on which the violation occurred was properly posted in accordance with the provisions of this section shall create an inference that such lands were properly posted.

§70-4-107. Open seasons; limits; crimes and offenses

- a) There is hereby declared a closed season upon all hunting and fishing in this state upon all wildlife protected by the laws of the state.
- b) Whenever the supply of game and/or fish existing in any area, lake or stream shall become adequate to allow the taking and/or hunting thereof without material danger of extinction or undue depletion of such game or fish, then it shall be lawful for any person to hunt and/or fish in the area, lake or stream within the creel, size, and bag limits, and in the manner and by the means prescribed by the wildlife resources commission.

- c)
 - 1) The fact as to whether or not the supply of game and/or fish is at any time adequate to allow the taking thereof without the danger of extinction or undue depletion shall be determined by the commission, after a complete survey of the area in question.
 - 2) If the commission finds that the supply of game and/or fish is sufficient to allow taking without the danger of extinction or undue depletion, it shall announce such fact by proclamation, in which it shall state the species of the game and/or fish which may be taken without the danger as aforementioned, and shall likewise ascertain and announce the dates and hours of the day between which such game and/or fish may be taken without the dangers set forth. Upon such announcement by the commission, it is lawful for any person within the area so designated by the commission to take game and/or fish of the species mentioned by the commission.
 - 3) The proclamations shall become effective thirty (30) days after filing with the secretary of state. During emergency conditions, seasons may be closed, reopened or extended summarily. A copy of all proclamations issued by the commission shall be immediately filed with the secretary of state and the county clerks for the counties affected.
 - 4) The commission shall annually publish a list of such wildlife as are deemed destructive and/or not to be protected by law.
- d) During any such open season as promulgated by the commission, the provisions of all general game and fish laws shall remain in full force and effect with reference to the method and manner of hunting and fishing and all other restrictions and provisions as to the taking of wild animals and fish as now or hereafter appear in the general game and fish laws.
- e) The open season on private lakes may be set by the owner and operator thereof, but the creel limits on fish caught from the waters of such lakes shall not exceed that set by law for public waters.
- f)
 - 1) The commission may establish open seasons, bag and creel limits for the taking of game and fish on state lands, including lands leased by the state for wildlife management purposes, and may make any regulations it may deem needful to promote the best interest and enforce these provisions by means of rules and directions.
 - 2) A violation of this subsection is a Class B misdemeanor.

§70-4-108. Public roads or dwellings; hunting; crimes and offenses

- a) It is unlawful to hunt or shoot at or chase or catch or kill with or without dogs any wild animal, wild bird, or wild fowl from a public road right-of-way, or to shoot any firearms across or on any public road.
- b) It is unlawful to hunt or shoot at or chase or kill with or without dogs any wild animal, wild bird or wild fowl on public lands and waters within one hundred yards (100 yds.) of a visible dwelling house, whether or not such dwelling house is on public or private lands, without the owner's permission.
- c) A violation of the provisions of this section is a Class C misdemeanor

§70-4-109. Motor vehicles, watercraft or aircraft; crimes and offenses; handicapped persons

- a) It is unlawful to chase, hunt or kill any wild birds, wild animals or wild fowl in the state of Tennessee from any craft propelled by electric, gasoline, steam or sail power, or airplane or hydroplane or from any automobile or motor vehicle.
- b) A violation of this section is a Class C misdemeanor.
- c) Notwithstanding the above, any person totally and permanently confined to a wheelchair as certified by appropriate documentation to the executive director may hunt or kill any wildlife from a stationary automobile or motor vehicle during the lawful hunting seasons; provided, that it is unlawful for such person to shoot directly across or over any road, path or other right-of-way; and provided further, that any such persons shall be accompanied by another person who is not so confined at all times when hunting, and that such person shall retrieve all game taken in such hunt.

§70-4-110. Spotlighting deer; crimes and offenses

- a) It is unlawful for any person, or one (1) or more of a group of persons together, to willfully throw or cast, or cause to be thrown or cast, the rays of a spotlight, headlight, or other artificial light from any motor vehicle or vessel or with the aid of any motor vehicle or vessel, on any highway, or in any field, woodland, or forest, or the waters of the state, in an apparent attempt or intent to locate deer by the use of such light.
- b) The operator of any motor vehicle or vessel from which the rays of an artificial light have been cast as outlined herein shall immediately stop such vehicle or vessel upon the direction of any enforcement officer of the wildlife resources agency.
- c) A violation of this section is a Class B misdemeanor.
- d) In the prosecution of second or subsequent offenders, the indictment or presentment must allege the prior conviction for violating any of the provisions of this section, setting forth the time and place of each such prior conviction. The court shall prohibit such convicted person, either first or subsequent offenders, from hunting, fishing or trapping in this state for a period of one (1) year.

§70-4-111. Closed Season; crimes and offenses

Any person who hunts or kills any big game during the closed season for such game commits a Class B misdemeanor.

§70-4-112. Raccoons; hunting or chasing; training dogs; crimes and offenses

- a)
 - 1) It is lawful for any person to chase coons with dogs at any season of the year but no coon shall be killed or taken except during such open season therefor as may be prescribed by the wildlife resources commission or other body possessing the power to regulate open and closed seasons for game. No person chasing coons with dogs shall use or carry any firearms, axes or climbing instruments except during such open season as may be proclaimed as above set forth. No coon shall be shot at any time in the year either from a boat or any type of motor vehicle.
 - 2)

- A) Notwithstanding the provisions of this section, this part or any public or private act to the contrary, in counties which are located entirely east of U.S. Highway 27, the commission shall establish a minimum training season of not less than six (6) months each year, within which period coon dogs may be trained. Such coon dog training season shall not commence earlier than June 1 of each year. Such six (6) month period need not be consecutive. Within such training season, no person chasing coons with dogs shall use or carry any firearms, axes or climbing instruments except during such open season as may be proclaimed pursuant to this section. No coon shall be killed or taken except during such open season. No coon shall be shot at any time in the year either from a boat or any type of motor vehicle. The commission shall establish a minimum coon hunting season of not less than six (6) weeks each year, which season shall not commence sooner than November 1 of each year. Such six (6) week period need not be consecutive. The commission has the authority to extend both the training season or hunting season, or both, to such additional periods of time as it deems justified based on the coon population in the area involved in any section or sections of the state.
- B) To the extent that the provisions of this subdivision (a)(2) conflict with the provisions of §70-4-122, any public act or any private act, the provisions of this subdivision (a)(2) control and shall supersede such laws.
- b) Any person violating this section commits a Class C misdemeanor, and, in addition to the penalties prescribed by §40-35-111 for Class C misdemeanors, is prohibited from hunting, chasing, or trapping for a period of not less than one (1) year.

§70-4-113. Taking protected wildlife; prohibited practices; exceptions; health and safety

- a) It is unlawful for any person at any time to make use of any pitfall, deadfall, cage, snare, trap, net, baited hooks, poison, chemicals, explosives, set guns, spotlights, electric lights or torches, bait (which includes any grain, or mixture of any ingredients, used as or for food purposes) or other devices for the purpose of killing, injuring, or capturing any birds or animals protected by the wildlife laws of this state, except as otherwise expressly provided.
- b) The executive director or the executive director's designees may use any chemical, biological substance, poison or device under controlled conditions to capture or kill any bird or animal for scientific, propagating, enforcement, humane or rescue purposes or when it is considered necessary by the executive director to reduce or control any species that may be detrimental to human safety, health or property. No action on the part of the executive director, directed to the control of rabies or other diseases spread from wildlife to human beings, shall be taken until the following conditions shall have been met:
- 1) The county board of health in the affected county shall have met in open session and, by appropriate resolution, declared that a condition detrimental to the human safety, health or property exists within the affected county;
 - 2) An official quarantine by the county board of health has been established on all dogs, cats and pets in the county; and

- 3) An official request has been made by the county board of health, through and with the concurrence of the commissioner of health, to the executive director to take such action as is necessary by the executive director or the executive director's designees and by such means as are authorized in this section to bring the disease under control in the affected county. This subsection is effective in every county in this state.
- c) A violation of this section is a Class C misdemeanor; provided, that spot, electric or torch lights may be used in the hunting and taking of raccoons, opossums and frogs, and box traps may be used for the taking of rabbits during the open shooting season for the same.

§70-4-114. Dens or nests; disturbance or destruction; crimes and offenses

- a) It is unlawful to disturb, mutilate, or destroy the home, nest, or den of any protected wild animals, or birds, to use spears or any like device in the hunting or taking of protected wild animals, to blind with lights, except as provided in §70-4-113, or to use explosives, chemicals, or mechanical devices, or smokers of any kind to drive protected wild animals out of their dens, holes, or houses.
- b) A violation of this section is a Class C misdemeanor.

§70-4-115. Landowners; disposal of destructive wildlife; road kill reports; crimes and offenses

- a) The owner of lands may destroy any wild animals, wild birds, or wild fowl when such animals, wild birds, or wild fowl are destroying property upon such lands. Any person, before destroying any big game under the conditions provided for in this section, is required to obtain a permit for destroying such big game. Such permit shall be issued by an officer of the wildlife resources agency.
- b) Any big game killed or destroyed under the conditions provided for in this section shall remain the property of this state and may be disposed of by the officer of the commission by gift to any worthy recipient; provided, that any wild birds or wild animals killed accidentally or illegally shall be disposed of in the same manner and a receipt for the same obtained from the person or agency receiving such game.
- c) Motorists are not required to report game accidentally killed by the operation of a motor vehicle. Notwithstanding any other provision of the law to the contrary, wild animals accidentally killed by a motor vehicle may be possessed by any person for personal use and consumption; except that, first, personal possession of a deer accidentally killed by a motor vehicle is permitted only if the person notifies the wildlife resources agency or any law enforcement officer within a reasonable time not to exceed forty-eight (48) hours and supplies that person's name and address; and second, personal possession of a bear accidentally killed by a motor vehicle is permitted only when authorized by an enforcement officer of the wildlife resources agency and the person is issued a kill tag. In deer-kill notification situations where a law enforcement officer rather than someone with the wildlife resources agency is notified, the law enforcement officer or the officer's designee shall be responsible for notifying someone with the wildlife resources agency and supplying the information relevant to the deer-kill. Nothing in this section authorizes possession of federally protected wildlife or wildlife protected by the state under chapter 8 of this title.

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

§70-4-116. Ammunition restrictions; deer, wild turkey, bear, or wild boar; crimes and offenses

- b) It is unlawful to hunt, pursue, capture, possess, transport or store any deer, wild turkey, bear, wild elk or wild boar, either male or female, in this state, at any time or in any area other than at times and within the area designated by the commission in its promulgation of open seasons, as provided by this title.
- c) Subsections (a)-(c) do not apply when such deer, wild turkey, bear, wild elk or wild boar has been killed outside the boundaries of this state. Possession of such game in any closed season or boundary, except as provided in subsection (e), is prima facie evidence of guilt under this section. Any person found in possession of a deer, wild turkey, bear, wild elk or wild boar and claiming that it was killed outside the state shall present to the executive director, or to any court hearing a cause pursuant to this title, sufficient proof to establish that the animal was so killed.
- d)
- 1) Any person killing and/or possessing a deer, wild turkey, bear, wild elk or wild boar shall tag the animal in accordance with procedures set out in the proclamation. Any deer, wild turkey, bear, wild elk or wild boar which has not been tagged in accordance with the provisions of this chapter or any proclamation promulgated in accordance with this title may be confiscated and disposed of as provided by law.
 - 2) The commission is authorized to issue special quota harvest tags for certain species, or sexes of species, requiring limited harvest. The commission is authorized to adopt rules and regulations which would permit granting to landowners special consideration in the issuance of special quota harvest tags.
 - 3) A violation of this subsection is a Class C misdemeanor.
- e)
- 1) A violation of subsections (a)-(c) is a Class B misdemeanor except that a violation of any of these sections relative to wild elk shall be a Class A misdemeanor. It is mandatory upon the court to impose the prison sentence, upon conviction for a second or subsequent offense, and the prison sentence is not subject to suspension.
 - 2) In the prosecution of second or subsequent offenders, the indictment or presentment must allege the prior conviction for violating any of the provisions of subsections (a)-(c), setting forth the time and place of each such prior conviction. The court shall prohibit such convicted person, either a first or subsequent offender, from hunting, fishing or trapping in this state for a period of one (1) year.
- f) When any person illegally or improperly kills or possesses a dead deer, wild turkey, bear, wild elk or wild hog, the agency may, in its discretion, also seek civil damages against such person in the appropriate court. All damages so recovered shall be payable to the agency and shall not be less than two hundred dollars (\$200) for each deer, wild turkey, bear or wild hog so killed or possessed nor less than one thousand dollars (\$1,000) for each wild elk so killed or possessed.

- g) The court shall have authority to order payment of restitution to the wildlife resources agency as part of punishment for any person convicted of illegally or improperly killing or possessing a wild elk. In addition to any other relevant factors to consider when determining the amount of restitution, the court shall include the costs associated with the reintroduction of a wild elk. Notwithstanding any provision of law to the contrary, a farmland owner, lessee or designee may take an elk found within a “no elk zone” when such owner, lessee or designee reasonably believes the elk is causing or has caused damage to such owner’s property. In all other situations, the farmland owner, lessee or designee shall first provide the agency an opportunity to relocate the elk. The “no elk zone” shall be defined by the commission.

§70-4-117. Weapons; big game habitat; crimes and offenses

- a) It is unlawful for any person to be in possession of any firearm, bow and arrow, shotgun or rifle in or on, while traversing any refuge, public hunting area or wildlife management area frequented or inhabited by big game, except during specified or lawful open seasons on these areas. Any person violating this section is guilty of hunting big game and shall be punished as provided for in subsections (b) and (c).
- b)
- 1) A violation of this section is a Class B misdemeanor.
 - 2) It is mandatory upon the court to impose the prison sentence, upon conviction for a second or subsequent offense, and the prison sentence is not subject to suspension.
- c) In the prosecution of a second or subsequent offenders, the indictment or presentment must allege the prior conviction for violating any of the provisions of this section, setting forth the time and place of each such prior conviction. The court shall prohibit such convicted person, either a first or subsequent offender, from hunting, fishing or trapping in this state for a period of one (1) year.

§70-4-118. Dogs chasing deer; confiscation; crimes and offenses

- a) No person shall knowingly hunt deer being chased by dogs nor shall any person knowingly and intentionally permit such person's dogs to hunt or chase deer.
- b) Any officer of the wildlife resources agency may take into possession any dog known to have hunted or chased deer and shall notify the owner of the dog, or if the owner is unknown, shall advertise in a newspaper of general circulation in the county that the dog is in the officer's possession, giving the description of the dog and stating the circumstances under which it was taken. The officer shall hold the dog for a period of ten (10) days and shall report the facts in full to the director.
- c) If, within ten (10) days, the owner claims the dog, the owner may repossess it on payment of the costs of advertising and the cost of keep. If the owner does not claim the dog within the above specified time, the dog shall be deemed ownerless and a public nuisance and shall be disposed of in the manner prescribed by the executive director. In this event, the costs of advertising and keep shall be paid by the agency.
- d) Any person violating the provisions of this section commits a Class B misdemeanor. It is mandatory upon the court to impose the prison sentence, and the minimum time is not subject to suspension, but may be served on such days designated by the judge.

§70-4-119. Nongame aquatic life; commercial fishing; crimes and offenses

- a) The taking of fish, mussels, turtles and other aquatic animal life, other than those species designated as game fish, from the waters of this state is not permitted except in accordance with the following provisions:
 - 1) Any and all varieties of fish, mussels, turtles and other aquatic animal life may be sold commercially, subject to limitations prescribed by the wildlife resources commission;
 - 2) The commission is hereby authorized to designate all waters which shall be opened to the use of various types of gear to be used for the commercial taking of fish, mussels, turtles and other aquatic animal life, and the commission is authorized to specify the types of commercial gear to be used for the taking of fish, mussels, turtles and other aquatic animal life from any of such waters, under regulations prescribed by the commission in its proclamation for the commercial taking of fish, mussels, turtles and other aquatic animal life;
 - 3) The possession and/or use of any type of gear which is not specifically authorized by the commission, or which is not properly licensed, is forbidden. No commercial gear may be possessed on, or immediately adjacent to, any body of water where such gear is not authorized;
 - 4) Any wildlife accidentally taken in connection with a commercial operation under this section shall be quickly and carefully released with the least possible injury;
 - 5) Each piece of commercial fishing gear, including trotlines, fished commercially, shall bear securely fastened thereto at the head end of the line or net or to the float, a current and valid identifying tag to be supplied by the commercial fisher. The tag shall measure at least one inch by three inches (1" x 3") and shall have thereon the name of the commercial fisher along with the commercial fisher's current license number.
 - 6) The commission is hereby authorized to promulgate proclamations pertaining to the use of slat baskets by sport fishing license holders. Such baskets shall be marked with an identifying tag which will expire the last day of February following the date of issue. This tag will be issued to each sport fishing license holder upon application to the agency and upon payment of not more than five dollars (\$5.00) to defray the cost and expense of furnishing each tag;
 - 7) It is unlawful for a commercial fisher to possess, while engaging in commercial fishing, any species of fish which cannot legally be taken with commercial fishing gear, except for legally taken bream less than four inches (4") in length which may be used as bait;
 - 8) Any person violating this section or any proclamation promulgated pursuant to this section commits a Class B misdemeanor and also is prohibited from engaging in sport fishing, commercial fishing or commercial musseling for a period of time of not less than one (1) year. Any person who engages in sport fishing, commercial fishing or commercial musseling during the prohibited time set by the court commits a Class B misdemeanor;
 - 9) For enforcement purposes, if fewer than five percent (5%) by number of mussels taken by a commercial musseler are not suitable for sale because such mussels are too small, no sanctions shall be imposed against such commercial musseler; and

- 10) Wholesale fish dealers and wholesale mussel dealers shall supply upon request from the director of wildlife resources agency or the director's agent reports detailing the quantities of fish and mussels purchased. Records shall be made available for inspection upon request by agents during normal business hours.
- b) Possession of commercial fishing gear on, or immediately adjacent to, any waters closed due to contamination, or possession of any species of fish, turtle or other aquatic animal life taken from waters closed to that species due to contamination is punishable as a Class A misdemeanor. Additionally, such person shall be prohibited from engaging in commercial fishing for not less than six (6) years.
- c)
- 1) It is unlawful to use or possess dynamite, electrical device, explosives, chemicals, lime or poison to kill or stun fish, or to attempt to do so.
 - 2) A violation of subdivision (c)(1) is a Class B misdemeanor.
 - 3) Each fish killed and each stick of dynamite or dynamite cap used is a separate offense.
 - 4) The executive director, or the executive director's designated agents, may use any substance or chemical or device to stun or kill fish for scientific, propagating, enforcement or rescue purposes, and may use poison in certain waters or lakes of the state where it is necessary to remove or eradicate undesirable species of fish from the waters.

§70-4-120. Traps and snares; rules and regulations; crimes and offenses; training bird dogs

- a)
- 1) It is unlawful for any person, except as provided in this chapter, to set or place any trap or snare, or bait the same, upon the lands of, or in the waters adjoining the lands of, any person, for the purpose of catching or killing any wild animal upon the lands of another, except during the open season on such animals, and then only after such person has obtained the written consent of the owner of the lands, which written consent shall be upon the person who may be using or setting the devices; provided, that nets, spring poles and deadfalls are prohibited at all times and all places.
 - A) Steel traps placed about a hole, cave or den or about a hollow log, hollow stump or any like place shall be placed twelve (12) or more inches within the entrance thereof, and it is unlawful to place steel traps in the open, except for water sets. Nothing in this subdivision prohibits the placement of cushion-hold traps in the open when the person so trapping has specific permission in the written consent of the owner to place the trap on the top of the ground.
 - B) All traps shall be inspected within each thirty-six (36) hours and any animal or fowl caught therein shall be removed.
 - C) Persons trapping upon the lands of another shall at once make the owner of the lands a full written report of the head of stock, fowl or dog caught in the steel trap or other trapping device set by such person, giving the date the fowl, stock or dog was caught, with a full description of the fowl, stock or dog.

- D) When damage is done to any person's stock, fowl, dogs or the like by reason of being caught by the device, the one setting or placing the device shall be liable for all damages done by such device.
- E) All traps set or used for the purpose of taking any wild animals shall be stamped with the owner's name in such manner that the same shall be legible at all times. Any trap or traps found that are not stamped, as above, may be confiscated or destroyed.
- F)
- (i) Except as provided in subdivision (a)(1)(F)(ii), the use of cable snare traps, regardless of the diameter, is unlawful in any county located in the eastern grand division as defined in §4-1-202.
 - (ii)
 - (a) The provisions of this subdivision shall not apply to Bledsoe County, Sevier County, Blount County or to Marion County.
 - (b) The provisions of this subdivision shall not apply in counties having a population, according to the 1990 federal census or any subsequent federal census of:

not less than	not more than
13,680	13,750
26,100	26,400
30,500	30,800
31,100	31,400
35,075	35,200
42,200	42,500
68,100	68,400
335,000	336,000
- G) Any person violating this section commits a Class C misdemeanor and also is prohibited from trapping and/or engaging in the business of buying or selling furs for a period of time of not less than one (1) year. Any person who traps or engages in the business of buying or selling furs during the period commits a Class C misdemeanor.
- 2)
- A) Notwithstanding the provisions of this section or any other law to the contrary, in Dyer County at all times and in all places, it is unlawful for any person to set or place a snare trap for the purpose of catching or killing any wild animal. This subdivision (a)(2) does not apply to a landowner who sets or places a snare trap within the boundaries of such owner's own land or to any person who is acting as the duly appointed agent or representative of the Obion-Forked Deer Basin authority. A violation of this subdivision is punishable in accordance with the provisions of subdivision (a)(1)(G).
 - B) This subdivision (a)(2) has no effect unless it is approved by a two-thirds (2/3) vote of the county legislative body of Dyer County. Its approval or nonapproval shall be proclaimed by the presiding officer of the county legislative body and certified by such officer to the secretary of state.
- b) Deleted by 1997 Pub.Acts, c. 158, §2, eff. April 30, 1997.

- c) It is lawful at all times for any person to train bird dogs through the use of release pens and tamed and identified quail. The tamed quail shall be identified through the use of tags or dye and the training of the bird dogs shall be conducted under such rules and regulations as may be promulgated by the wildlife resources commission.

§70-4-121. Federal fish and wildlife service; exemptions

It is lawful for the director of the United States fish and wildlife service and the director's duly authorized agents to take at any time and in any manner from the public fresh waters of this state all fish required by them for the operation of the state and federal hatcheries. The United States fish and wildlife service is exempt, in the operation of federal fish hatcheries in Tennessee, from the provisions of the state game laws. The director of the United States fish and wildlife service and the director's duly authorized agents are accorded the right to conduct fish hatching and fish culture and all operations connected therewith in any manner and at any time that may by the director be considered necessary and proper, any laws of the state to the contrary notwithstanding.

§70-4-122. Training raccoon dogs

- a)
- 1) It is unlawful for any person or firm to train coon dogs by chasing coons in West Tennessee and the following counties: Carter, Claiborne, Greene, Johnson, Sullivan, and that part of DeKalb County lying south and west of state highway No. 96 and U.S. Highway No. 70, except during the thirty (30) days immediately preceding the opening of the season under general laws of the state for hunting coons; provided, that none of the provisions of this subsection shall apply to Shelby County or the counties of McNairy, Fayette, Hardeman, Decatur, Dyer, Carroll, Henry, Weakley and Chester.
 - 2) As used in this subsection, "West Tennessee" includes that portion of the state lying west of the Tennessee River where it enters the state from the states of Alabama and Mississippi and emerges into the state of Kentucky, but "West Tennessee" does not include Benton County, Gibson County, Madison County, Henderson County or Hardin County. The provisions of this subsection also apply to the following counties located in other parts of the state: Carter, Claiborne, Greene, Johnson, Morgan, Sullivan, Unicoi, and that part of DeKalb County lying south and west of state highway No. 96 and U.S. Highway No. 70.
- b)
- 1) COCKE COUNTY. It is lawful in Cocke County to have a jump-out training season during the period each year from October 9 through November 1, and notwithstanding other provisions of this section, it is lawful to train coon dogs in Cocke County at any time of the year, except during the period each year from March 1 to May 15, so long as coons are not taken except during the open season.
 - 2) CROCKETT COUNTY. It is lawful at any time of the year to train coon dogs in Crockett County so long as coons are not taken except during the open season.
 - 3) GIBSON COUNTY. It is lawful at any time of the year to train coon dogs in Gibson County, so long as coons are not taken except during the open season.
 - 4) GRAINGER COUNTY. It is unlawful for any person or firm to train coon dogs by chasing coons in Grainger County, except during the period beginning October

- 1 through February 28, so long as coons are not taken except during the open season.
- 5) HANCOCK COUNTY. Notwithstanding other provisions of this section, it is lawful to train coon dogs in Hancock County at any time of the year, except during the period each year from March 1 to May 15, so long as coons are not taken except during the open season.
 - 6) HAWKINS COUNTY. It is unlawful for any person or firm to train coon dogs by chasing coons in Hawkins County except during the open season.
 - 7) HAYWOOD COUNTY. It is lawful at any time of the year to train coon dogs in Haywood County, so long as coons are not taken except during the open season.
 - 8) HUMPHREYS COUNTY. It is lawful at any time of the year to train coon dogs in Humphreys County, so long as coons are not taken except during the open season.
 - 9) JEFFERSON COUNTY. It is lawful in Jefferson County to have a jump-out training season during the period each year from October 9 through November 1, and notwithstanding other provisions of this section, it is lawful to train coon dogs in Jefferson County at any time of the year, except during the period each year from March 1 to May 15, so long as coons are not taken except during the open season.
 - 10)
 - A) LAKE COUNTY. It is unlawful for any person or firm to train coon dogs by chasing coons in Lake County except during the open season.
 - B) This subdivision (b)(10) shall have no effect unless it is approved by a two-thirds (2/3) vote of the county legislative body of Lake County. Its approval or nonapproval shall be proclaimed by the presiding officer of the Lake County legislative body and certified by such officer to the secretary of state.
 - 11) LAUDERDALE COUNTY. It is lawful at any time of the year to train coon dogs in Lauderdale County, so long as coons are not taken except during the open season.
 - 12) MORGAN COUNTY. Notwithstanding any provision of §70-4-112 to the contrary, it is lawful to train coon dogs from July 1 to the first day of the open season for hunting coons in Morgan County, so long as coons are not taken except during the open season. It is also lawful to conduct “sanctioned coon hunts” in such county during the closed season, so long as coons are not taken during such closed season. For the purposes of this subdivision, “sanctioned coon hunts” means chasing coons for the purpose of “treeing” only. The “sanctioned hunts” shall require the approval of a recognized Kennel Club such as the AKC, UKC, NKC or PKC.
 - 13) OBION COUNTY. Notwithstanding other provisions of this section, it is lawful to train coon dogs in Obion County at any time of the year, so long as coons are not taken except during the open season.
 - 14) TIPTON COUNTY. It is lawful at any time of the year to train coon dogs in Tipton County, so long as coons are not taken except during the open season.
 - 15) UNICOI COUNTY. It is unlawful for any person or firm to train coon dogs by chasing coons in Unicoi County except during the seventy (70) days immediately prior to the season for hunting coons in such county.

16) WASHINGTON COUNTY. It is unlawful for any person or firm to train coon dogs by chasing coons in Washington County except during the open season.

- c) A person who violates this section commits a Class C misdemeanor. Nothing herein shall be construed as restricting the training of coon dogs where no element of chasing or hunting coons is involved.

§70-4-123. Bow and arrow hunting; possession of firearm; crimes and offenses

- a) It is unlawful for any person hunting big game with a bow and arrow to be in possession of any firearms or be accompanied in hunting by any person possessing firearms during the archery-only deer season.
- b) A person who violates the provisions of this section commits a Class C misdemeanor.

§70-4-124. Safety; daylight fluorescent orange clothing; crimes and offenses

- a) Every person hunting big game except turkey during the gun hunts proclaimed by the commission shall wear on the upper portion of the body and head outer garments of daylight fluorescent orange color of not less than five hundred (500) square inches and visible from the front and back.
- b) "Daylight fluorescent orange color" means having a dominant wave length between five hundred ninety-five thousandths (.595) and six hundred five thousandths (.605) nanometers, excitation purity of not less than eighty-five percent (85%) and a luminance factor of not less than forty percent (40%).
- c) A violation of this section is a Class C misdemeanor.
- d) This section does not apply to a person hunting on that person's own property.

§70-4-125. Poisons; crimes and offenses; rabies control

- a) No person shall deposit, place or cause to be deposited or placed out of doors any poisonous substance or any matter which has been rendered poisonous which causes or is capable of causing death or injury to wildlife, hunting dog, or domestic animal. Such prohibition applies only where the substance or matter is placed on the property of another.
- b) No person shall knowingly or recklessly place or deposit, or cause to be placed or deposited, on such person's property a poisonous substance or any matter which would be rendered poisonous if consumed by an animal or human being, if such poison or poisonous matter could be reasonably assumed to be accessible by a minor under the age of fifteen (15) years. The provisions of this subsection shall only apply if the placing or depositing of the poisonous substance is done with the intent of causing death or injury to a hunting dog or a domestic animal.
- c) A person who violates this section commits a Class C misdemeanor.
- d) Such prohibition does not apply to rabies control activities of the appropriate public health officials.

§70-4-126. Fox lures; crimes and offenses; rabies control

- a) No person shall use any electronic or battery operated device for the purpose of luring, killing, or attempting to lure or kill a fox.
- b) A person who violates the provisions of this section commits a Class C misdemeanor.
- c) Such prohibition shall not apply to rabies control activities of the appropriate public health officials.

§70-4-127. Doves; baiting; crimes and offenses

- a) It is a criminal offense to bait a field or other area. "Bait," as used in this section, means the intentional placement of grain or any mixture of any ingredients used as or for food purposes for the purpose of killing, injuring, or capturing doves. "Bait" does not include the broadcasting or sowing of grain or seed for normal agricultural purposes, the placement of salt pans or troughs for livestock, the practice of leaving or manipulating standing crops in a field, or other normal agricultural practices customarily practiced on the land.
- b) Any person who enters upon the lands of another to bait a field or other area commits criminal trespass, and, upon conviction, shall be punished in accordance with the provisions of §39-14-405.
- c) Any person who baits a field or other area or any person who assists, employs or directs another to do so commits a Class C misdemeanor.

§70-4-128. Doves; baiting; posting property

If any Tennessee wildlife resources agency officer or employee has reasonable cause to believe that a field has been unlawfully baited with grain or any mixture of any ingredients used as or for food purposes for the purpose of killing, injuring or capturing doves, then such officer or employee shall immediately post notices on such field in conspicuous locations that the field is baited and hunting is prohibited. If any such officer or employee discovers and fails to post such field in accordance with this section, no person shall be subject to prosecution for hunting on or over such field, notwithstanding any provision of this title to the contrary. The Tennessee wildlife resources agency and its officers and employees are exempt from civil liability in its actions in enforcement of this section.

§70-4-129. Charities or nonprofit corporations selling wildlife or fish; fundraisers

- a) Notwithstanding the provisions of §70-4-101, or rules, regulations or proclamations of the agency or commission to the contrary, fish and wildlife may be sold by charitable organizations in any county having a population of not less than twenty-seven thousand eight hundred (27,800) nor more than twenty-eight thousand (28,000) according to the 1990 federal census or any subsequent federal census for fundraising purposes in accordance with the provisions of subsection (b).
- b) Notwithstanding any provision of this title or rule, regulation or proclamation of the agency or commission to the contrary, fish and wildlife which are lawfully taken or acquired and donated to an organization which has received a determination of exemption from the internal revenue service pursuant to 26 U.S.C. §501(c)(3) may be sold by such organization to raise funds if the following conditions are met:

- 1) The organization distributes at least ninety percent (90%) of the funds raised to other organizations which have received a determination of exemption from the Internal Revenue Service pursuant to 26 U.S.C. §501;
- 2) The organization maintains records for three (3) years of the source of such donations, and such records are made available for inspection upon request of the wildlife resources agency; and
- 3) The organization notifies the wildlife resources agency thirty (30) days in advance of any such sale.

§70-4-130. Hunting or possession of albino deer; crimes and offenses

- a) Except as provided in §70-4-115, it is unlawful for any person to knowingly hunt, kill, trap, ensnare, or destroy, or to attempt to destroy, or to have in such person's possession albino deer, which is a deer with a lack or significant deficiency of pigment in the skin and hair and with pink eyes.
- b) Any violations of the proclamations or rules and regulations promulgated by the wildlife resources commission are punishable as provided in this title, and the illegal taking or possession of each animal constitutes a separate offense.
- c) Violation of this section is a Class B misdemeanor, punishable by fine only.

§70-4-201. Protected wildlife; crimes and offenses

- a) It is unlawful for any person, firm or corporation, any restaurant, club, or hotel in this state to barter, sell, transfer or offer for sale, or to purchase, or offer to purchase, any of the wildlife except as provided within this title or in rules and regulations promulgated by the commission.
- b) Each unlawful sale, purchase, offer for sale or purchase, transfer, or possession with the intent to sell, barter or transfer for any consideration of a wild animal or wild bird, wild fowl or game fish, or part thereof, is a separate offense.
- c) Any person hiring another to kill or capture wildlife and receiving the wildlife is deemed to be buying the wildlife and is subject to the penalties of this title. Officers of the wildlife resources agency or persons specially employed or designated by the executive director or by the United States fish and wildlife service may capture, buy, sell, or offer to capture, buy or sell wild birds or wild animals, or parts thereof, for the sole purpose of obtaining evidence of violation of this title. The carcass of a lawful possession limit of opossum, raccoon or beaver may be bought, sold or shipped for sale during the open hunting and/or trapping season.
- d) A violation of this section is a Class A misdemeanor; except that any violation of this section involving wildlife valued at five hundred (\$500) dollars or more is a Class E felony.

§70-4-202. Illegally taken wildlife; hides or parts; use or possession; liability

Any person who makes any use of or has in possession any wild animals, wild animals' green hides, wild birds, wild fowl or fish or parts thereof which have been caught, taken, killed or destroyed contrary to any of the provisions of this title shall be equally liable under the provisions hereof for the penalties imposed against the person who caught, took, killed, or destroyed such wild animals, wild animals' green hides, wild birds, wild fowl or fish who was formerly in possession of same.

§70-4-203. Protected wildlife; transportation; crimes and offenses

- a) Any person who desires to take protected game or fish out of the state may do so under the following conditions, but not otherwise:
 - 1) Such person must have in possession at the time of such taking out of the state, or at the time of transporting within the state, a hunting and fishing license, duly issued to such person under the provisions of this title; and
 - 2) Such person cannot take from the state more than two (2) days' bag or creel limit on ducks or other migratory birds or protected game or fish.
- b) Any officer of the wildlife resources agency, or assistant officer of the wildlife resources agency, sheriff, deputy sheriff, constable or other officer has the right to demand of any person possessing game and proposing to take it out of the state an inspection of such person's license. A refusal on the part of the person to exhibit the license is a Class C misdemeanor.
- c) Any resident hunter may have game or fish transported home by filing with the common carrier a written statement with name and address, the number of such person's hunting license, and the number of game or fish to be so transported, and that the game or fish was legally killed by such person and is not for sale. A copy of the statement shall be attached to such person's game, or to whatever the game may be enclosed in.
- d) It is unlawful for any person, company or common carrier to ship or transport any birds, game fish or animals as mentioned in this section (except as otherwise provided in this title) without having ascertained that the person offering the same for shipment was then and there in possession of a hunting and fishing license duly issued and covering the period when the shipment was offered, and without requiring such person to accompany the shipment.
- e) A violation of this section is a Class C misdemeanor.

§70-4-207. Defacing and destroying notice of commission or agency – Penalty

- a) It is unlawful for any person to deface, obliterate, tear down or destroy, in whole or in part, or attempt to deface, obliterate, tear down, or destroy any notice, proclamation or sign posted by the wildlife resources commission or the wildlife resources agency.
- b) A violation of this section is a Class C misdemeanor.

§70-4-208. Unlawful importation of skunks – Penalty

- a) It is unlawful for any person to import, possess, or cause to be imported into this state any type of live skunk, or to sell, barter, exchange or otherwise transfer any live skunk, except that the prohibitions of this section shall not apply to bona fide zoological parks and research institutions.
- b) A violation of this section is a Class C misdemeanor.

§70-4-209. Purchase or sale of red fox hides, furs or pelts

- a)
 - 1) It is unlawful to buy or sell green hides, raw furs or pelts of a red fox, except as provided in subsection (b) and/or in counties open to the lawful taking of red fox.
 - 2) A violation of this subsection is a Class C misdemeanor.

- b) When a red fox is legally killed, it is lawful to buy or sell green hides, raw furs or pelts of such red fox at any time in counties with the following population, according to the 1970 federal census or any subsequent federal census:

not less than	nor more than
5,800	5,900
7,400	7,450
7,600	7,650
8,000	8,100
12,300	12,350
12,550	12,650
13,500	13,600
13,610	13,700
14,850	14,900
19,400	19,500
20,200	20,300
20,700	20,800
21,900	22,000
22,400	22,500
22,600	22,700
25,500	26,000
26,000	26,100
28,000	28,100
28,800	28,900
30,400	30,500
32,500	32,600
33,700	33,800
35,470	35,500
36,900	37,000
38,800	38,900
47,800	47,900
56,200	56,300
60,250	60,350
61,000	63,500
65,700	65,800
127,300	127,400

§70-4-210. Deer hides – Squirrel pelts and tails

Notwithstanding any provision of law to the contrary, it is lawful for any person to buy, sell, store, or ship for sale, at any time the hides of deer and the pelts and tails of grey squirrels and fox squirrels taken during the open season.

**§70-4-211. Nets and other fishing equipment near mouth of watercourse –
Penalty**

- a) It is unlawful for any person, while fishing, to use any nets, seines, snag lines, drag lines, grab hooks, or baskets, or any other form of fishing equipment, or other obstruction of any character to the free passage of fish within one hundred (100)

- yards of the mouth of any river, creek, slough, inlet or outlet, except bait or casting plugs with not more than three (3) treble hooks attached, ordinary fly fishing equipment, and pole and line with not more than three (3) single hooks attached.
- b) For the purposes of this section, “mouth of a stream” means the location of a line resulting from the projection or extension of the banks of the main stream which receives the tributary, except in the case of streams entering waters impounded by hydroelectric or flood control dams, in which case the mouth of the entering stream is defined as the line where the free, downstream movement of natural water is visibly reduced or retarded by the level of the impounded waters in the main stream.
- c) A violation of this section is a Class C misdemeanor.

§70-4-301. Definitions

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

- 1) “Taking” means the capture or killing of a wild animal and includes travel, camping, and other acts preparatory to taking which occur on lands or waters upon which the affected person has the right or privilege to take such wild animal; and
- 2) “Wild animal” means any wild creature, the taking of which is authorized by the fish and game laws of the state.

§70-4-302. Violations – Penalty

Any person who performs any of the following commits a Class C misdemeanor

- 1) Interferes with the lawful taking of a wild animal by another with intent to prevent the taking;
- 2) Disturbs or engages in an activity that will tend to disturb wild animals, with intent to prevent their lawful taking;
- 3) Disturbs another person who is engaged in the lawful taking of a wild animal or who is engaged in the process of taking, with intent to dissuade or otherwise prevent the taking;
- 4) Enters or remains upon public lands, or upon private lands without permission of the owner or the owner’s agent, with intent to violate this section; or
- 5) Fails to obey the order of a peace officer to desist from conduct in violation of this section if the officer observes such conduct, or has reasonable grounds to believe that the person has engaged in such conduct that day or that the person plans or intends to engage in such conduct that day on a specific premises.

§70-4-303. Injunctions – Damages – Construction

- a) Any court may enjoin conduct which would be in violation of §70-4-302 upon petition by a person affected or who reasonably may be affected by such conduct, upon a showing that such conduct is threatened or that it has occurred on a particular premises in the past and that it is not unreasonable to expect that under similar circumstances it will be repeated.
- b) A court may award damages to any person adversely affected by a violation of §70-4-302, which may include an award for punitive damages. In addition to other items of special damage, the measure of damages may include expenditures of the affected person for license and permit fees, travel, guides, special equipment and supplies, to

the extent that such expenditures were rendered futile by prevention of the taking of a wild animal.

- c) No provision of this part shall be construed to prohibit or otherwise restrict any landowner, tenant, or employee of a landowner from engaging in normal activities on or normal use of the land or property, and such activities or use shall not be deemed unlawful pursuant to any provision of this part. No provision of this part shall be construed so as to interfere with the right of the landowner to prohibit trespass upon the landowner's property by any person.

§70-4-401. Prohibited acts

- a) It is unlawful for any person to possess, transport, import, export, buy, sell, barter, propagate or transfer any wildlife, whether indigenous to this state or not, except as provided by this part and rules and regulations promulgated by the Tennessee wildlife resources commission pursuant to this part.
- b) No person shall possess Class I or Class II wildlife without having documentary evidence showing the name and address of the supplier of such wildlife and date of acquisition.

§70-4-402. Definitions

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

- 1) "Agency" means the Tennessee wildlife resources agency;
- 2) "Cage" means the primary enclosure in which an animal is held;
- 3) "Circus" means a public entertainment consisting typically of a variety of performances by acrobats, clowns, and trained animals, but does not include wrestling bears or any type of show in which there is direct contact between the public and a Class I animal, except as otherwise provided for in this part;
- 4) "Commercial propagator" means any person or entity which may sell, barter, trade, propagate or transfer Class I wildlife (excluding transfers to other commercial propagators located within the boundaries of Tennessee), and which meets all other applicable license, permit, zoning and other requirements necessary to conduct business in the city, county and state where located;
- 5) "Commission" means the Tennessee wildlife resources commission;
- 6) "Mobile facility" means a facility designed for the transporting of animals or for the holding of animals on a temporary basis;
- 7) "Native wildlife" means those species presently occurring in the wild in Tennessee and those extirpated species that could reasonably be expected to survive in the wild if reintroduced;
- 8) "Perimeter fence" means a secondary fence that prevents the public from touching the cage in which the animal is held;
- 9) "Permanent exhibitors" means those exhibits that are housed the entire year in facilities located within the state of Tennessee;
- 10) "Personal possession permit" means a noncommercial type permit issued to private citizens for ownership or possession of nonbreeding animals in small numbers;
- 11) "Stationary facility" means the primary holding facility, including cage and barriers that remain in a fixed location; and

- 12) “Temporary exhibitors” means those transient animal acts not permanently located within the boundaries of the state of Tennessee.

§70-4-403. Classifications of wildlife

Live wildlife, kept and maintained for any purpose, shall be classified in the following five (5) classes:

- 1) Class I - This class includes all species inherently dangerous to humans. These species may only be possessed by zoos, circuses and commercial propagators, except as otherwise provided in this part. The commission, in conjunction with the commissioner of agriculture, may add or delete species from the list of Class I wildlife by promulgating rules and regulations. The following is a listing of animals considered inherently dangerous:
 - A) Mammals:
 - (i) Primates - Gorillas, orangutans, chimpanzees, gibbons, siamangs, mandrills, drills, baboons, Gelada baboons;
 - (ii) Carnivores:
 - (a) Wolves - All species;
 - (b) Bears - All species; and
 - (c) Lions, tigers, leopards, jaguars, cheetahs, cougars - All species;
 - (iii) Order Proboscidea: Elephants - All species;
 - (iv) Order Perissodactyla: Rhinoceroses - All species; and
 - (v) Order Artiodactyla: Hippopotamus, African buffalo;
 - B) Reptiles:
 - (i) Order Crocodylia: Crocodiles and alligators - All species; and
 - (ii) Order Serpentes: Snakes - All poisonous species; and
 - C) Amphibians: All poisonous species;
- 2) Class II - This class includes native species, except those listed in other classes;
- 3) Class III - This class requires no permits except those required by the department of agriculture, and includes all species not listed in other classes and includes, but is not limited to, those listed in subdivisions (3)(A)-(Q). The commission, in conjunction with the commissioner of agriculture, may add or delete species from the list of Class III wildlife by promulgating rules and regulations:
 - A) Nonpoisonous reptiles and amphibians except caimans and gavials;
 - B) Rodents - Gerbils, hamsters, guinea pigs, rats, mice, squirrels and chipmunks;
 - C) Rabbits, hares, moles and shrews;
 - D) Ferrets and chinchillas;
 - E) Llamas, alpacas, guanacos, vicunas, camels, giraffes and bison;
 - F) Avian species not otherwise listed, excluding North American game birds, ostriches and cassowary;
 - G) Semi-domestic hogs, sheep and goats;
 - H) All fish held in aquaria;
 - I) Bovidae not otherwise listed;
 - J) Marsupials;
 - K) Common domestic farm animals;
 - L) Equidae;
 - M) Primates not otherwise listed;

- N) Bobcat/domestic cat hybrids;
- O) Hybrids resulting from a cross between a Class II species and a domestic animal or Class III species;
- P) Cervidae except white-tailed deer and except wild elk. Elk originating from a legal source while held in captivity for the purpose of farming shall be regarded as Class III wildlife. All other elk shall be wild elk and shall be regarded as Class II wildlife. No person shall possess elk in captivity within the eastern grand division of the state as defined in §4-1-202 without having documentary evidence indicating the origin of the elk being held. This documentary evidence will be presented to the agents of the department of agriculture or the wildlife resource agency upon request. Sale documentation of offspring of purchased elk is not required; and
- Q) Furbearing mammals, including those native to Tennessee, raised solely for the sale of fur;
- 4) Class IV - This class includes those native species that may be possessed only by zoos and temporary exhibitors; provided, that rehabilitation facilities may possess Class IV wildlife as provided by rules established by the commission if authorized by a letter from the director of the agency:
 - A) Black bear (*Ursus americanus*);
 - B) White-tailed deer (*Odocoileus virginianus*);
 - C) Wild turkey (*Meleagris gallapavo*) (including the eggs thereof);
 - D) [Deleted by 1996 amendment.]
 - E) Hybrids of a Class IV species other than bobcat shall be Class IV; and
 - F) Animals that are morphologically indistinguishable from native Class IV wildlife shall be Class IV; and
- 5) Class V - This class includes such species that the commission, in conjunction with the commissioner of agriculture, may designate by rules and regulations as injurious to the environment. Species so designated may only be held in zoos under such conditions as to prevent the release or escape of such wildlife into the environment.

§70-4-404. Permits – Fees

- a) The agency shall issue permits for possessing live wildlife as defined in this part.
- b)
 - 1) The commission shall adopt reasonable rules for issuing permits to possess live wildlife and establishing the conditions thereof. The conditions shall be directed toward assuring the health, welfare, and safety of animals, the public and, where necessary, the security of facilities in which the animals are kept.
 - 2) The executive director of the agency may authorize by letter permission to possess any class of wildlife for approved research studies or for the temporary holding of animals in the interest of public safety. The executive director may exempt specific events from the caging and handling requirements established for Class I wildlife. Approval of an exemption will be based on a written request that outlines safety precautions that must be implemented during the specified activity.
- c) Class I wildlife.

- 1) Persons legally possessing Class I wildlife prior to June 25, 1991, shall obtain annually a personal possession permit to keep such Class I wildlife. To obtain a personal possession permit, such persons shall comply with all of the provisions of this part. After June 25, 1991, no new animals shall be brought into possession under authority of a personal possession permit. Persons in legal possession of one (1) or more species of Class I wildlife as of June 25, 1991, may maintain the lineage of such species up to a maximum of three (3) animals per species. Persons in legal possession of the offspring of such Class I wildlife shall have a maximum of twelve (12) months from the date of birth of such offspring to obtain appropriate permits for such offspring, or to dispose of such offspring through an appropriate commercial propagator, or by any other manner permitted by law within the state. The provisions of this section apply solely to persons in legal possession of Class I wildlife as of June 25, 1991, and shall not be construed to authorize new personal possession of Class I wildlife.
- 2) The executive director shall issue a permit upon a satisfactory showing of qualifications to possess live wildlife under the following conditions:
 - A) The applicant must be at least twenty-one (21) years of age;
 - B) The applicant must have at least two (2) years of experience in the handling or care of the Class I species for which the applicant is applying, or, in the alternative, must take a written examination, developed and administered by the agency, evidencing basic knowledge of the habits and requirements, in regard to proper diet, health care, exercise needs and housing of the species to be covered by the permit. Experience gained while in violation of this part shall not be considered qualifying experience;
 - C) The facilities for holding Class I wildlife must be located on the premises on which the permit holder resides or shall have a full-time resident caretaker to supervise the care and security of the facilities. Facilities for Class I animals may not be on premises of less than one (1) acre for a personal possession permit and three (3) acres for a commercial propagator facility permit, and may not be located in a multi-unit dwelling or trailer park; and
 - D) The applicant must have a plan for the quick and safe recapture of the wildlife, or if recapture is impossible, for the destruction of any animal held under the permit. The applicant must have the legal authority to possess weapons or other equipment necessary to carry out the plan and, in fact, possess such weapons or other equipment.
- 3) The permittee shall control and maintain Class I wildlife at all times in such a manner as to prevent direct exposure or contact between the animal(s) and the public; provided, that a trained elephant may be brought into contact with the public under the close supervision of a qualified trainer or handler.
- d) No person shall hold live wildlife in captivity without first obtaining the appropriate permit as provided in this part. The annual permits and fees for holding live wildlife are as follows:
 - 1)
 - A) Personal Possession. Class I: \$150/animal or \$1,000/facility; and
 - B) Class II: \$10.00/animal or \$100/facility;

- 2) Transfer of Ownership. A permit for transferring any Class I or II animal held under a personal possession permit. If the transfer of the animal is ordered by the agency, no transfer permit is required;
- 3) Commercial Propagator. \$1,000/facility for Class I wildlife;
- 4) Propagator. \$25.00/facility for small game birds and waterfowl; and \$100/facility for all Class II wildlife except small game birds and waterfowl;
- 5) Importation. \$10.00/shipment or \$100 per year;
- 6) Temporary Exhibitor. \$100/30 day period;
- 7) Permanent Exhibitor. \$500/year/facility;
- 8) Commercial Wildlife Preserve. \$150/year for big game; and \$75.00/year for small game;
- 9) Falconry. \$40.00/year or other time period as might coincide with federal permit requirements;
- 10) Qualification Examination. \$10.00/examination; and
- 11) Zoos, Nature Centers, Rehabilitation Centers, and Educational Exhibits Certified As Nonprofit. No charge.

§70-4-405. Housing and transportation of wildlife – Requirements

- a) Wildlife housed in dangerously unsafe conditions constituting a threat to human safety shall, at the direction of agency personnel, be placed in agency approved facilities at the owner's expense.
- b) Any condition which results in wildlife escaping from its enclosure, cage, leash or other constraint shall be considered maintaining wildlife in an unsafe manner and shall be a violation of this part.
- c) Cages shall be sufficiently strong to prevent escape and to protect the caged animal from injury.
- d) No person shall maintain any wildlife in captivity in any unsanitary or unsafe condition or in a manner which results in the maltreatment or neglect of such wildlife, nor shall any species of wildlife be confined in any cage or enclosure which does not meet the cage specifications.
- e) Enclosure in which wildlife is held in captivity shall be maintained as follows:
 - 1) Water. Drinking water shall be provided daily in clean containers. Swimming or wading pools shall be cleaned as needed to ensure good water quality. Enclosures shall provide adequate drainage of surface water;
 - 2) Food. Food provided shall be unspoiled and not contaminated; and
 - 3) Waste. Fecal and food waste shall be removed from cages daily and stored or disposed of in a manner which prevents noxious odors or insect pests. Hard floors shall be scrubbed and disinfected weekly. Large pens and paddocks with dirt floors shall be raked every three (3) days and the waste removed.
- f) The commission may promulgate rules and regulations requiring specific cage requirements for any species of live wildlife.
- g) Stationary facilities - Class I wildlife.
 - 1) All stationary facilities must be surrounded by a perimeter fence (secondary barrier) of at least eight feet (8') in height and a minimum of four feet (4') from the cage holding the animal, or such other fencing, building or other protection of

- the enclosure where the animal is kept sufficient to prevent unauthorized public entry or direct physical contact between the animal and the public.
- 2) All cages shall be well braced and securely fastened to the floor or in the ground and shall utilize metal clamps or braces of equivalent strength as that prescribed for cage construction.
 - 3) All cage entrances shall have double safety doors, one (1) of which only opens to the inside. These doors must remain locked at all times when unattended with chains and locks of sufficient strength to prevent the animal from breaking open the door if highly excited.
 - 4) All cages shall be constructed with a den, nest box or other connected housing unit that can be closed off and locked with the animal inside for the safe servicing and cleaning of the open area. In lieu of a nest box, a divided cage with a door between the two (2) compartments may be used.
 - 5) All outdoor cages shall provide adequate shelter from inclement weather conditions, shade from the sun and provide for the protection and health of the wildlife held.
 - 6) The mesh size or distance between bars shall be sufficiently small to prevent the escape of the animal being held.
 - 7) Restraint by tethering cannot be used as a means to hold an inherently dangerous animal in captivity, except for elephants within a perimeter fence or trained elephants under the immediate supervision of a qualified trainer or handler.
 - 8) All animals shall be kept in cages which meet the following minimum criteria, or shall be housed in buildings in which the strength of the walls, and the restraints affixed to all windows, doors and other means of entry or exit in effect meet such minimum criteria:
 - A) Felidae and Ursidae.
 - (i) All cages shall be constructed of and covered at the top with nine (9) gauge steel chain link or equivalent, with tension bars and metal clamps to prevent the escape of the animal; provided, that animals, except tigers, leopards and jaguars, may be held in facilities without a top where the sides of the cages are a minimum of eleven feet (11') high with the top three feet (3') of fencing turned in at a forty-five degree (45 degrees) angle. No structures which could provide potential escape routes may be present near the fence of an open top cage;
 - (ii) All cages for cougars and cheetahs shall be constructed as specified in subdivision (A)(i) except that minimum strength shall be of eleven and one half (11 1/2) gauge steel chain link or equivalent;
 - B) Canidae. All cages shall be constructed of and be covered at the top with eleven and one-half (11 1/2) gauge steel chain link or equivalent, with tension bars and metal clamps to prevent the escape of the animal; provided, that animals may be held in facilities without a top where the sides of the cage are a minimum of nine feet (9') high with the top three feet (3') of fencing turned in at a forty-five degree (45 degrees) angle;
 - C) Elephants, rhinoceros, hippopotamus and African buffalo.

- (i) Construction materials shall consist of steel bars, masonry block or equivalent. If masonry block construction is used, the holes in the blocks must be filled with steel reinforced concrete to provide sufficient strength;
 - (ii) Restraints consisting of a barrier system of moats or other structures as are commonly accepted as suitable to restrain and contain these animals in paddocks or corrals may be used in lieu of a cage;
 - D) Poisonous animals. Poisonous animals shall be kept in a cage or in a glass enclosure sufficiently strong, and, in the case of a cage, of small enough mesh to prevent the animals' escape. The cage or glass enclosure must be kept inside an outer cage, or glass enclosures must be kept locked at all times. No person except the permittee or such person's authorized employee shall open any cage or other container which contains poisonous animals. Persons keeping poisonous animals shall have in their possession antivenin for each species possessed;
 - E) Chimpanzees, gorillas, orangutans. Cage construction materials shall consist of steel bars, two inch (2") galvanized pipe, reinforced masonry block or their strength equivalent;
 - F) Drills, mandrills, baboons, Gelada baboons, gibbons, siamangs. Cage construction materials shall consist of not less than nine (9) gauge steel chain link or equivalent; and
 - G) Alligators and crocodiles. Cages shall consist of fencing at least five feet (5') in height of not less than eleven and one-half (11 1/2) gauge chain link or equivalent.
- 9) A facility that meets the requirements to be a zoological institution may use methods approved by the American Association of Zoological Parks and Aquariums for the purposes of restraint, containment and the prevention of escape and public contact for Class I animals, instead of the requirements listed in the preceding subdivisions.
- h) Mobile facilities. No mobile facility shall be used in transporting any wildlife except as follows:
- 1) Facilities shall be equipped to provide fresh air without injurious drafts and adequate protection from the elements to all animals;
 - 2) The animal traveling area shall be free of engine exhaust fumes;
 - 3) Animal cages shall have openings for the emergency removal of wildlife;
 - 4) Cages shall be large enough to ensure that each specimen has sufficient room to stand erect and lie naturally;
 - 5) Wildlife transported in the same cage area shall be in compatible groups;
 - 6) Facilities used in transporting or temporarily exhibiting Class I wildlife shall be constructed of steel or case hardened aluminum of sufficient strength to prevent the escape of wildlife being transported. Such facilities shall be constructed in such a manner to prevent contact between the animal(s) and the general public. All doors shall be locked when the facility is in use;
 - 7) Poisonous reptiles shall only be transported in a strong, closely woven cloth sack, tied or otherwise secured. This sack shall then be placed in a box. The box shall be of strong material in solid sheets, except for small air holes, which shall be screened. Boxes containing poisonous reptiles shall be locked and prominently

labeled “Danger - Poisonous Snakes” or “Danger - Poisonous Reptiles,” and shall include the owner’s name, address, telephone number and list of number and species being transported;

- 8) Temporary exhibits shall be housed in cages that meet the minimum cage specifications as provided in the section on stationary facilities when such wildlife is present in any geographical location for more than ten (10) days; and
- 9) Prior to entering the state of Tennessee, temporary exhibitors shall submit a schedule that details the exact locations and dates of shows and places where such wildlife will be exhibited while in the state. Failure to provide such a schedule upon application for a permit shall be grounds to deny issuance of such permit.

§70-4-406. Liability for escape - Limitation of state’s liability

- a) Any person who keeps Class I wildlife is liable for any costs incurred by any person, city, county or state agency resulting from the escape from captivity of the animal(s).
- b) Neither the state of Tennessee nor any agency, employee or agent thereof is liable for any animal that expires, or is injured or is destroyed. Neither the state of Tennessee nor any agency, employee or agent thereof is liable for any damage or injury caused by live wildlife under a permit issued pursuant to this part.

§70-4-407. Transfer of Class I wildlife – Notification

- a) Prior to the transfer of any Class I wildlife to a new owner, the prospective owner must provide the seller with proper documentation of an approved holding facility for that species. Proper documentation consists of a copy of a current permit for that species or a letter from the Tennessee wildlife resources agency stating that the facilities have been inspected and are approved. Any transfer without approved holding facilities is a violation of this part by the seller, who shall provide housing for the animal at such seller’s cost until the transferee can provide approved facilities or until final court actions are concluded. If the seller does not provide housing, such seller shall be liable for costs incurred by the agency for providing such housing.
- b) Permittees must notify the agency of any transfer of Class I wildlife within five (5) days of the transfer on forms provided by the agency.

§70-4-408. Owners of unpermitted wildlife - Disposition of such wildlife

Owners of unpermitted wildlife who do not qualify for a permit to possess such wildlife shall dispose of such wildlife to an approved recipient within thirty (30) days of notification by the agency. Each day of possession of unpermitted wildlife after such thirty (30) day period constitutes a separate violation.

§70-4-409. Inspections

Any person possessing live wildlife in Class I or Class II shall, during normal business hours and at all reasonable times, and without the necessity of a search warrant, allow the executive director or any officer or employee of the agency to inspect all animals, facilities and records relating to such animals for the purpose of ensuring compliance with the provisions of this part.

§70-4-410. Propagation of Class I or Class II wildlife – Permit

- a) Before any person may engage in the business of propagating or otherwise obtaining Class I or Class II wildlife for sale, barter or trade, whether indigenous to this state or not, such person must obtain and possess a permit for each propagating location.
- b) Any nonresident who enters the state for the purpose of selling Class I or Class II wildlife species in this state shall also be required to purchase and possess a permit.
- c) All permits under this section shall comply with all provisions of the United States Code and the Code of Federal Regulations relating to exotic animals, their care, propagation, importation and sale.
- d) Artificially propagated wildlife may be propagated, sold, possessed, released or exported in accordance with the rules and regulations prescribed by the commission and, in the case of migratory birds, the regulations prescribed by the federal government.
- e) Only commercial propagators may qualify for a permit to propagate Class I wildlife and may transfer Class I wildlife only to persons or entities approved to possess Class I wildlife. First time commercial propagators shall have one (1) permit year to meet the criteria as defined in §70-4-402(4). Renewal of a commercial propagator permit is conditional on the permittee having met the definition of a “commercial propagator” during the prior permit year.

§70-4-411. Importation of wildlife – Permits – Papers

- a) All persons wishing to possess Classes I and II live wildlife obtained outside the state of Tennessee shall have in their possession the importation permit required by this part. The permit and all bills of lading and shipping papers relating to any wildlife which such person may have in such person’s possession shall be open and available for inspection at all reasonable times by authorized agency officers and employees for the purpose of ensuring compliance with the provisions of this part.
- b) Animals brought into this state under the authority of an annual importation permit must be reported to the agency within five (5) days of the date of importation.
- c) An importation permit is required for all interstate movement of live wildlife except Class III, except no permit is required for zoos and temporary exhibitors.

§70-4-412. Release of wildlife

It is unlawful to release any class of wildlife in Tennessee except in accordance with the rules and regulations promulgated by the commission.

§70-4-413. Private wildlife preserves – Hunting

- a) It is unlawful for any person to operate a private wildlife preserve for the purpose of propagating and/or hunting any class of wildlife reared in captivity unless that person obtains the appropriate permit and operates such private wildlife preserve in accordance with the rules and regulations promulgated by the commission.
- b) It is lawful to hunt approved species of pen-reared and farm-reared animals on such preserve.
- c) Persons hunting pen-reared animals on such preserve are not required to possess a hunting license.

§70-4-414. Raptors - Falconry permit

- a) Before any person may take, transport or possess raptors for the purpose of falconry, such person shall first obtain a falconry permit in accordance with the rules and regulations promulgated by the commission. This permit is supplemental to all other permits and licenses required for hunting as provided in this title, except that a holder of a falconry license may import and possess raptors legally obtained without the necessity of an importation permit.
- b) Rules and regulations promulgated by the commission shall govern the taking, importation, possession and use of raptors, and shall require applicants for such permit to satisfactorily pass a written examination attesting to their qualification to possess and use falcons. The rules and regulations may provide for a waiver of the examination if the applicant has satisfactorily passed an examination in any other state which the commission deems comparable to the Tennessee examination. The rules and regulations shall not be less restrictive than federal regulations governing taking, transporting, possessing and using raptors for the purpose of falconry.

§70-4-415. Authority of officers of agency - Violations - Penalties – Forfeitures

- a) Any officer of the agency, upon finding a violation of the provisions of this part, of the terms of the permit or rules and regulations promulgated pursuant to this part, may, as appropriate:
 - 1) Exercise such officer's arrest authority or, in lieu thereof, issue a finding of a violation, along with a warning to remedy the violation by a specified date. Each day's continuation after such date constitutes a separate violation;
 - 2) Give three (3) days' written notice of seizure to the alleged offender, and make application to a court of proper jurisdiction for an order to seize any items or wildlife held, used or transported in violation of the provisions of this part, the permit or rules or regulations promulgated pursuant to this part; provided, that if such officer determines that the public health, safety or welfare imperatively requires emergency action, the notice requirement shall be suspended and such officer may make immediate application to the court for seizure; and provided further, that if the emergency is such that the wildlife presents a present or imminent life-threatening situation or is likely to do so under the circumstances, then such officer or any member of the agency who may be present and assisting the officer may destroy such wildlife; and
 - 3) Take any other reasonable and appropriate actions otherwise provided by law including, but not limited to, the action provided for under §70-4-405(a).
- b) Any person violating any provision of this part, including a failure to remedy under subdivision (a)(1), or who violated the terms of any permit or rules and regulations promulgated pursuant to this part, commits a Class A misdemeanor; provided, that in the discretion of the court, and in lieu of or in addition to a fine or a jail sentence, or both, the person's permit may be revoked, and such person shall be precluded from applying for or obtaining a permit under this part for a period not to exceed three (3) years.
- c) In the event of revocation of a person's permit, the court shall determine whether or not the items seized pursuant to subdivision (a)(2) shall be ordered forfeited to the state.

- d) When any item or wildlife is forfeited, the court shall enter an order accordingly and the contraband property shall be sold at public sale by the commissioner of general services or as otherwise provided by rules and regulations, or donated to a worthy recipient. However, upon request of the agency at the trial of the matter, the court, as a part of its order, may direct that specific items or wildlife, which the court has ordered forfeited, be awarded to the agency for use as educational or training purposes.
- e) No item or wildlife seized by the agency may be forfeited or disposed of in the discretion of the court, unless the offender has been convicted of the offense charged and all appeals from such conviction have been exhausted. An appeals bond shall be required to cover the cost of holding and maintaining such animals held, pending final disposition of the appeal.

§70-4-416. Notification of escape – Injuries

Permittees shall immediately notify the agency or local law enforcement officials of any escape of Class I wildlife. Any personal injury inflicted by any species of captive wildlife requiring medical treatment shall be reported to the agency within forty-eight (48) hours of the injury, and a complete report provided regarding the nature and circumstances of the injury.

§70-5-101. Establishment of hunting areas, refuges, and wildlife management areas - Prohibited acts

- a) The wildlife resources agency has the power and authority to establish, with the consent of the property owner, public hunting areas, refuges, or wildlife management areas, wherever it deems necessary or feasible for the protection, propagation and/or management of wildlife.
- b) It is unlawful to hunt, kill, destroy, trap, ensnare, or molest in any manner any wildlife within such areas or to trespass on such areas except as provided by proclamation or rule or regulation. Such areas shall be posted in conspicuous places. The executive director is authorized to issue permits for the destruction of predatory wildlife within such areas.
- c) A violation of this section is a Class C misdemeanor.

§70-5-106. Establishment of fish preserves - Powers of commission - Penalty for violations

- a) The wildlife resources commission has the power and authority, in its discretion, to set aside waters within the jurisdiction of the state as fish preserves in which it is unlawful to take, catch or kill fish, or to attempt to do so, except as provided in this section.
- b) Upon the establishment of such fish preserves, notices of such establishment shall be inserted once in a newspaper regularly published in each of the counties in which such designated waters are located, or if there be no newspaper published in any such county, the notice of such establishment shall be once inserted in a newspaper published in the county nearest to which such waters are located.

- c) The commission has the power and authority to close the waters against fishing of all kinds, and to reopen the same for fishing when it deems the water has been closed a sufficient time for restocking.
- d) Notices of the establishment of such fish preserves shall also be posted in conspicuous places surrounding or along the route of the waters designated.
- e) A violation of this section is a Class C misdemeanor.

§70-5-108. Acquisition of game and fish rights on private property - Nature of rights acquired - Penalty for violations

- a) The executive director is authorized and empowered to acquire by gift, devise, lease, purchase or otherwise the exclusive game and fish rights on any privately owned lands or waters in the state of Tennessee, which game and fish rights shall include the right to manage, administer, protect, stock, and propagate wild birds, wild animals and fish upon these areas, and the right to permit hunting and fishing upon these areas in accordance with rules and regulations proclaimed by the commission.
- b) Any violation of such rules and regulations proclaimed by the commission is a Class C misdemeanor.
- c) The game and fish rights authorized to be acquired in this section shall be acquired for any period of years that the private owner may agree to by appropriate instruments in writing, signed and acknowledged by the owner or owners of the areas, and the executive director is hereby authorized to have these leases duly recorded in the office of the register of deeds for the county or counties in which the land is located.

§70-5-109. Posting notices of rules and regulations

Before any rules and regulations proclaimed by the wildlife resources commission relative to such game and fish rights become effective, there shall be posted printed notices in prominent places and at adequate intervals around the boundary line of the area on which such game and fish rights have been acquired; provided, that the fact that one (1) or more notices have been torn down or removed after having been posted in accordance with this section shall not constitute an excuse or defense for a violation of such rules and regulations.

§70-6-101. Enforcement authority - Inspection of game - Penalty for refusing to allow inspection – Regulations

- a) The executive director or the officers of the wildlife resources agency, or officers of any other state or of the federal government who are full-time wildlife enforcement personnel designated by the executive director, shall enforce all laws now enacted or that may hereafter be enacted for the propagation and preservation of all wildlife in this state, and shall prosecute all persons, firms and corporations who violate any of such laws. The executive director or officers of the agency shall seize any and all wild animals, wild fowl, wild birds, fishes, frogs and other aquatic animal life, or parts thereof, that have been killed, caught, or taken at a time, in a manner or for a purpose, or that are in possession, or that have been shipped, transported, carried or taken in this state or brought into this state from another state, contrary to the laws of this state.
- b)

- 1) It is the duty of every person participating in the privileges of taking or possessing such wildlife as permitted by this title to permit the executive director or officers of the agency to ascertain whether the requirements of this title are being faithfully complied with, including the possession of a proper license.
- 2) Any person who refuses such inspection and count by any authorized officer of the state, or who interferes with such officer or obstructs such inspection or count commits a Class C misdemeanor, and upon conviction shall be punished by a fine of not less than twenty-five dollars (\$25.00) nor more than fifty dollars (\$50.00).
- c) Nothing in this section shall be construed to permit search or inspection of a person's dwelling or place of business without a search warrant.
- d) The commission is authorized to provide by duly promulgated regulations a system for issuing warning citations under such conditions as may be deemed proper.

§70-6-102. Each unlawful taking and device deemed separate offense – Penalty

Each wild animal, wild bird, wild fowl, or fish caught, taken, killed, captured, destroyed, shipped, offered or received for shipment, transported, bought, sold or bartered, or had in possession, and each trap, snare, net or other device used or attempted to be used in violation of the provisions of this title constitutes a separate offense and, unless a specific penalty is otherwise provided, is punishable by a fine of not less than twenty-five dollars (\$25.00) nor more than fifty dollars (\$50.00) for each offense.

§70-6-103. Penalties for violation of title

- a) The violation of any of the provisions of §70-1-206, §70-1-302(a) and (b), §70-1-304(1), (2) and (4), §70-1-305, §70-1-306(c)-(h), §70-1-307, §70-1-308(a), §70-2-206, chapter 3 of this title, §70-4-105 or §70-5-103, is a Class C misdemeanor.
- b) The violation of any provisions of this title for which a penalty has not been expressly provided is a Class C misdemeanor, and in case of a corporation, every participating officer and/or agent thereof shall be guilty and punished as herein stated.

§70-6-104. Trial for violations - Jurisdiction – Appeals

- a) When any person is arrested for any violation of the wildlife laws, it is the duty of the arresting officer making or causing the arrest to take the person so arrested before a court of general sessions for trial, in the county where the offense was committed. If before such court of general sessions, the accused is found guilty of any offense punishable by a fine of fifty dollars (\$50.00) or less, that person shall have the right to appeal to the circuit or criminal court having jurisdiction of such appeals, upon giving security for the amount of the fine and imposed costs. In the cases of offenses punishable by a fine of more than fifty dollars (\$50.00) or by imprisonment, then the magistrate or court of general sessions is governed by the general laws applicable to such offenses.
- b) If the circuit court has concurrent jurisdiction with or as a criminal court in any county, then the circuit court shall likewise have jurisdiction over any offense for violation of any of the provisions of this title.

§70-6-105. Mistake of fact not a defense

In any prosecution for the violation of any of the provisions of this title, it is not a defense that the person killing, taking, selling, shipping or storing any animals, fish or birds was mistaken as to its variety, sex, age or size, it being one of the purposes of this section to penalize recklessness resulting in the violation of this section's provisions.

§70-6-201. Confiscation and disposal of wildlife and other articles illegally taken or used

- a) All officers of the wildlife resources agency, sheriffs and their deputies shall seize and take possession of any and all furs, fish, wild animals, wild birds, guns, rods, reels, nets, creels, boats or other instruments, tackle or devices which have been used, transported or possessed contrary to any laws or regulations promulgated by the wildlife resources commission, and impound and take the same before the court trying the person arrested.
- b) Upon complaint showing probable cause for believing that any of the wild animals, wild birds or fish protected by any law or regulation are being illegally kept in any building, car or receptacle, any court having jurisdiction may issue a search warrant and cause such building, car or receptacle to be searched. Any wild bird, wild animal, fish, articles, instruments, or devices seized in accordance with this section, shall be impounded by the arresting officer and taken before the court trying the person arrested.
- c)
 - 1) Upon conviction, the court or jury trying the case shall, except as provided in §§70-4-116 - 70-4-118, 70-6-202 - 70-6-206 [70-6-203 - 70-6-206 repealed], determine whether or not the things seized shall be declared contraband.
 - 2) When any item is declared contraband, the court shall enter an order accordingly and the contraband property shall be placed in the custody of the arresting officer, to be delivered to the executive director, who shall advertise and sell the same at the courthouse of the county in which the offense was committed, as provided by law for sales under execution; provided, that the executive director shall destroy or cause to be destroyed prohibited devices.
 - 3) All proceeds from the sale of confiscated articles shall be deposited in the wildlife resources fund.

§70-6-202. Property used in violation of §§70-4-116 - 70-4-118 declared contraband - Seizure and sale

- a) Any firearm, equipment, appliance or conveyance used in violation of the provisions of §§70-4-116 - 70-4-118, including any truck, automobile, boat, airplane, or other vehicle, other than a common carrier, and in which any deer, bear, or wild boar is located, or which is used in transporting such animals in violation of the provisions of this title, is hereby declared contraband property and shall be confiscated and forfeited to the state upon seizure.
- b) Any motor vehicle seized as contraband property and which has been finally forfeited to the state of Tennessee and which has not been ordered by any court or competent authority to be returned to any claimant shall be sold at public sale by the

commissioner of general services when the same has been turned over to the commissioner by the executive director as now authorized by law; provided, that, notwithstanding any other provision of the law to the contrary, any truck, automobile, boat, airplane or other vehicle seized and forfeited under the provisions of subsection (a) may be used, with the approval of the executive director, by wildlife officers, to enforce the fish and wildlife laws, for a period not to exceed two (2) years; and provided further, that the seized item is similar in kind and not substantially greater in value than like equipment that is procured and used by the wildlife resources agency in its operations.

- c) When any seizure results in an arrest and the person charged is found to be not guilty by a court of competent jurisdiction, such property shall be returned by the trial court. When the verdict of not guilty is rendered by a court of general sessions, the executive director shall have the right to appeal to the circuit court of the county wherein such verdict was rendered for a hearing de novo solely on the question of the propriety of the seizure of any property so seized as contraband and make disposition accordingly.
- d) The procedures set out in title 40, chapter 33, part 2, apply to this section.

§70-8-101. Short title

This part shall be known as the “Tennessee Nongame and Endangered or Threatened Wildlife Species Conservation Act of 1974.”

§70-8-102. Declaration of policy

The general assembly finds and declares that:

- 1) It is the policy of this state to manage certain nongame wildlife to ensure their perpetuation as members of ecosystems, for scientific purposes, and for human enjoyment;
- 2) Species or subspecies of wildlife indigenous to this state which may be found to be endangered or threatened within the state should be accorded protection in order to maintain and, to the extent possible, enhance their numbers;
- 3) The state should assist in the protection of species or subspecies of wildlife which are deemed to be endangered or threatened elsewhere by prohibiting the taking, possession, transportation, exportation, processing, sale or offer for sale or shipment within this state of species or subspecies of wildlife listed on the United States’ List of Endangered Fish and Wildlife as set forth herein unless such actions will assist in preserving or propagating the species or subspecies; and
- 4) Adequate funding should be made available to the agency annually by appropriations from the general fund or from other sources for management of nongame and endangered species.

§70-8-103. Definitions

As used in this part unless the context requires otherwise:

- 1) “Agency” means the primary agency within the state that has statutory authority to manage wildlife populations;
- 2) “Ecosystem” means a system of living organisms and their environment, each influencing the existence of the other and both necessary for the maintenance of life;
- 3) “Endangered species” means:
 - A) Any species or subspecies of wildlife whose prospects of survival or recruitment within the state are in jeopardy or are likely within the foreseeable future to become so due to any of the following factors:
 - i. The destruction, drastic modification, or severe curtailment of its habitat;
 - ii. Its overutilization for scientific, commercial or sporting purposes;
 - iii. The effect on it of disease, pollution, or predation;
 - iv. Other natural or man-made factors affecting its prospects of survival or recruitment within the state; or
 - v. Any combination of the foregoing factors;
 - B) Any species or subspecies of fish or wildlife appearing on the United States’ List of Endangered Native Fish and Wildlife as it appears on April 5, 1974 (Part 17 of Title 50, Code of Federal Regulations, Appendix D), as well as any species or subspecies of fish and wildlife appearing on the United States’ List of Endangered Foreign Fish and Wildlife (Part 17 of Title 50 of the Code of Federal Regulations, Appendix A), as such list may be modified hereafter;
- 4) “Executive director” means the director of the state agency that has statutory authority to manage wildlife populations;
- 5) “Management” means the collection and application of biological information for the purposes of increasing the number of individuals within species and populations of wildlife up to the optimum carrying capacity of their habitat and maintaining such levels. “Management” includes the entire range of activities that constitute a modern scientific resource program including, but not limited to, research, census, law enforcement, habitat acquisition and improvement, and education. “Management” includes, when and where appropriate, is the periodic or total protection of species or populations as well as regulated taking;
- 6) “Nongame species” means any wild mammal, bird, amphibian, reptile, fish, mollusk, crustacean or other wildlife not ordinarily taken for sport, fur, food or other commercial use;
- 7) “Optimum carrying capacity” means that point at which a given habitat can support healthy populations of wildlife species, having regard to the total ecosystem, without diminishing the ability of the habitat to continue that function;
- 8) “Person” means any individual, corporation, association or partnership;
- 9) “Take” means to harass, hunt, capture, or kill, or to attempt to harass, hunt, capture, or kill wildlife;
- 10) “Threatened” means any species or subspecies of wildlife which is likely to become an endangered species within the foreseeable future;

- 11) "Watchable wildlife" is any species or subspecies which is defined herein as nongame, endangered, threatened or wildlife in need of management. It further includes any wildlife species or subspecies when their use is nonconsumptive to the extent that such activities are consistent with their legal taking and welfare; and
- 12) "Wildlife in need of management" means any species or subspecies of wildlife that needs specific management to prevent it from becoming a threatened species within the state within the foreseeable future.

§70-8-104. Nongame species - Promulgation of regulations - Prohibited acts

- a) The executive director shall conduct an investigation on nongame wildlife in order to develop information relating to population, distribution, habitat, needs, limiting factors, and other biological and ecological data to determine management measures necessary for their continued ability to sustain themselves successfully. On the basis of such determinations, the wildlife resources commission shall issue proposed regulations not later than April 5, 1975, and develop management programs designed to ensure the continued ability of nongame, endangered or threatened wildlife to perpetuate themselves successfully. Such proposed regulations shall set forth species or subspecies of nongame wildlife which the executive director deems in need of management pursuant to this section, giving their common and scientific names by species or subspecies. The executive director shall conduct ongoing investigations of nongame wildlife and may from time to time recommend amendments to such regulations by adding to or deleting from the regulations species or subspecies of nongame wildlife.
- b) The commission shall by such regulations establish proposed limitations relating to habitat, alteration, taking, possession, transportation, exportation, processing, sale or offer for sale, or shipment as may be deemed necessary to manage such nongame wildlife.
- c) Except as provided in regulations issued by the commission, it is unlawful for any person to take, attempt to take, possess, transport, export, process, sell or offer for sale or ship nongame wildlife. Subject to the same exception, it is also unlawful for any common or contract carrier knowingly to transport or receive for shipment nongame wildlife.

§70-8-105. Endangered or threatened species list

- a) On the basis of investigation on nongame wildlife provided for in §70-8-104 and other available scientific and commercial data, and after consultation with other state wildlife agencies, appropriate federal agencies, and other interested persons and organizations, but not later than April 5, 1975, the wildlife resources commission shall by regulation propose a list of those species or subspecies of wildlife indigenous to the state which are determined to be endangered and threatened within this state, giving their common and scientific names by species and subspecies. This list shall be made available to the public.
- b) The commission shall conduct a review of the state list of endangered species within not more than two (2) years from its effective date and every two (2) years thereafter, and may amend the list by such additions or deletions as are deemed appropriate. The

executive director shall submit to the governor a summary report of the data used in support of all amendments to the state list during the preceding biennium and shall make a current list available to the public.

- c) In the event the United States' List of Endangered Native Fish and Wildlife is modified subsequent to April 5, 1974, by additions or deletions, such modifications whether or not involving species or subspecies indigenous to the state may be accepted as binding if, after the type of scientific determination described in subsection (a), the wildlife resources commission by regulation accepts such modification for the state. Any such regulation shall be effective upon promulgation.

§70-8-106. Management programs - Exceptions to regulations

- a) The executive director shall establish such programs, including acquisition of land or aquatic habitat, as are deemed necessary for management of nongame and endangered or threatened wildlife. The executive director shall utilize all authority vested in the agency to carry out the purposes of this section.
- b) In carrying out programs authorized by this section, the executive director may enter into agreements with federal agencies, political subdivisions of the state, or with private persons for administration and management of any area established under this section or utilized for management of nongame and endangered or threatened wildlife.
- c) The governor shall review other programs administered by the governor and, to the extent practicable, utilize such programs in furtherance of the purposes of this section. The governor shall also encourage other state and federal agencies to utilize their authorities in furtherance of the purposes of this section.
- d) The executive director may permit, under such terms and conditions as may be prescribed by regulation, the taking, possession, transportation, exportation or shipment of species or subspecies of wildlife which appear on the state list of endangered or threatened species, on the United States' List of Endangered Native Fish and Wildlife, as amended and accepted in accordance with §70-8-105(c), or on the United States' List of Endangered Foreign Fish and Wildlife, as such list may be modified hereafter, for scientific, zoological, or educational purposes, for propagation in captivity of such wildlife or for other species purposes.
- e) Upon good cause shown, and where necessary to alleviate damage to property or to protect human health and safety, endangered or threatened species may be removed, captured or destroyed but only pursuant to a permit issued by the executive director and by or under the supervision of an agent of the agency; provided, that endangered or threatened species may be removed, captured, or destroyed without permit by any person in emergency situations involving an immediate threat to human life. Provisions for removal, capture, or destruction of nongame wildlife for the purposes set forth above shall be set forth in regulations issued by the executive director pursuant to §70-8-104(a).

§70-8-107. Rulemaking authority

The wildlife resources commission shall issue such regulations as are necessary to carry out the purposes of this part.

§70-8-108. Penalties for violations - Searches and seizures – Forfeitures

- a) Any person who violates the provisions of §70-8-104(c) or any regulations issued under §70-8-104, or fails to procure or violates the terms of any permit issued thereunder, commits a Class B misdemeanor.
- b) Any person who fails to procure or violates the terms of any permit issued under §70-8-106(d) and (e) commits a Class A misdemeanor.
- c) Any officer employed and authorized by the executive director or any peace officer of the state or of any municipality or county within the state has the authority to conduct warrantless searches as provided by law, and to execute a warrant to search for and seize any equipment, business records, merchandise or wildlife taken, used, or possessed in connection with a violation of any section of this part. Any such officer or agent may, without a warrant, arrest any person who such officer or agent has probable cause to believe is violating, in the presence or view of the officer or agent, any such section, or any regulation or permit provided for by this part. An officer or agent who has made an arrest of a person in connection with any such violation may search such person or business records at the time of arrest and seize any wildlife, records, or property taken, or used, in connection with any such violation.
- d) Equipment, merchandise, wildlife, or records seized under the provisions of subsection (c) shall be held by an officer or agent of the agency pending disposition of court proceedings, and upon conviction be forfeited to the state for destruction or disposition as the executive director may deem appropriate; provided, that prior to forfeiture, the executive director may direct the transfer of wildlife so seized to a qualified zoological, educational, or scientific institution for safekeeping, the costs thereof to be assessable to the defendant. The executive director is authorized to issue regulations to implement this subsection.

§70-8-111. Authorization to enter agreements

The executive director is authorized to enter into cooperative agreements with other states and the federal government for the establishment and maintenance of programs for the conservation of nongame, endangered or threatened species of wildlife.

§70-8-112. Species similar to endangered species

The executive director may, by regulation, and to the extent the executive director deems advisable, treat any species as an endangered species or threatened species even though it is not listed if the executive director finds that:

- 1) Such species so closely resembles in appearance, at the point in question, a species which has been listed pursuant to such section that enforcement personnel would have substantial difficulty in attempting to differentiate between the listed and unlisted species;
- 2) The effect of this substantial difficulty is an additional threat to an endangered or threatened species; and

- 3) Such treatment of an unlisted species will substantially facilitate the enforcement and further the policy of this part.

§70-8-304. Powers of commissioner

The commissioner has the power and duty to:

- 3) Promulgate regulations under which the commissioner shall issue, without charging a fee, annual licenses for the commercial sale or export of any endangered species by nursery farmers;
- 7) Maintain a list of threatened species and special concern species;

APPENDICES

APPENDIX ONE

Tennessee Court System: Functions and Jurisdictions

Tennessee Court System: When you file in State Court

The great majority of legal disputes in American courts are handled in state courts. State courts have the exclusive power to exercise control over certain cases in certain geographical and subject areas. This power is known as *jurisdiction*. For example, state courts have jurisdiction over virtually all divorce and child custody matters, probate and inheritance issues, real estate questions, and juvenile matters. State courts also handle most criminal cases, contract disputes, traffic violations, and personal injury cases in the state of Tennessee.

Tennessee Court System: How it Works

1) *Courts of Limited Jurisdiction*

Courts of Limited Jurisdiction are funded at the county level and only can hear certain types of cases. Set forth below are examples of Courts of Limited Jurisdiction:

- A. Juvenile Court handles cases dealing with juvenile mental health, paternity, and cases involving minors that are alleged to be delinquent, unruly, dependent, and neglected. If a county has no Juvenile Court, the General Sessions Court hears cases involving juveniles. In some cases, Juvenile Court may also have concurrent, or simultaneous, jurisdiction with Circuit, Chancery, and Probate Courts. This means that both the Juvenile and other courts have the ability to hear the same case.

- B. General Sessions Court deals with cases about mental health, preliminary hearings in civil matters, domestic relations, estate/probate, small claims, misdemeanors, Driving While Intoxicated/Driving Under the Influence, traffic, and some juvenile matters. This court's jurisdiction varies from county to county, depending on local ordinance.
 - i. The Civil Jurisdiction of General Sessions Court is restricted by certain monetary limits and types of actions determined by local ordinance.
 - ii. Criminal Jurisdiction is limited to preliminary hearings in felony cases and trials in misdemeanor cases where the defendant waives the right to a grand jury investigation and a trial in either Circuit Court or Criminal Court.
 - iii. Juvenile Jurisdiction cases are heard in General Sessions Court except in those counties where the legislature has established a separate, Juvenile Court.

- C. Municipal Court, or "city court," hears minor criminal cases. Approximately three hundred Tennessee cities have a Municipal Court. A Municipal Court's jurisdiction is limited to violations of city ordinances. The most common matters

heard by Municipal Courts are parking and traffic violations. Many crimes involving animals are heard by Municipal Courts.

2) *Trial Courts*

The Tennessee state trial courts consist of the Probate Court, Chancery Court, Circuit Court, and Criminal Court. Tennessee's ninety-five counties are divided into thirty-one judicial districts. As provided in the state constitution, each judicial district contains a Circuit Court and Chancery Court. About one-third of the judicial districts feature specialized Criminal Courts, and a few districts have separate Probate Courts to handle wills and estates. Trial Courts are the lowest level of court review for most cases, but some cases may begin in Courts of Limited Jurisdiction. (*See Courts of Limited Jurisdiction, above*)

- A. Probate Court hears cases on estates, wills, conservatorships, and guardianships. These courts do not exist in every county. If a county does not have a Probate Court, these cases are handled in Circuit Court.
- B. Chancery Court hears domestic relations and civil cases. Generally, presiding Chancellors will hear and decide cases before the Chancery Court, but jury trials are available in certain cases.
- C. Circuit Court hears domestic relations, civil, and, in some jurisdictions, criminal cases. Circuit Courts also hear appeals from Courts of Limited Jurisdiction.
- D. Criminal Court hears only criminal cases. The Criminal Court also may hear misdemeanor appeals from lower courts. Criminal Courts do not exist in all Tennessee counties. In counties lacking a Criminal Court, the Circuit Court hears criminal cases at the trial level.

3) *Intermediate Appellate Courts*

The Court of Appeals and Court of Criminal Appeals review civil and criminal decisions made by the Trial Courts.

- A. The Court of Appeals hears cases arising in the trial courts dealing with civil, counsel for both parties to a case. Additionally, the court holds oral argument in administrative agency, and juvenile appeals. Currently composed of twelve judges, the Court of Appeals hears most appeals of civil cases from lower courts. The Court of Appeals meets in Knoxville, Nashville, and Jackson. Normally, the Court of Appeals hears cases in panels of three judges. Because it is strictly an appellate body, the Court of Appeals does not take testimony or admit evidence. It merely reviews the records of lower courts to determine whether there is reversible error. In reviewing lower court proceedings, the Court of Appeals is guided by the briefs submitted by which attorneys appear before it to make arguments orally and answer questions from the judges. Like most court proceedings, these oral arguments are open to the public. Cases are decided in private conferences, but the court releases its decision to the public in the form of a written opinion. Decisions of the Court of Appeals may be appealed to the

Tennessee Supreme Court, but that court hears appeals only at its discretion. Thus, the decision of the Court of Appeals is final in most instances.

- B. The Court of Criminal Appeals hears capital, criminal, and juvenile appeals. These matters include felony and misdemeanor convictions, as well as post-conviction petitions. Composed of twelve judges, the Court of Criminal Appeals operates in essentially the same way as its civil counterpart (the Court of Appeals), but its jurisdiction is limited to criminal actions.

4) *The Tennessee Supreme Court*

The Tennessee Supreme Court is the highest court in the state. The majority of the Supreme Court's caseload comes from appeals from lower state court decisions. Also known as the "Court of Last Resort," the Tennessee Supreme Court consists of five justices who hear civil and criminal appeals. The Tennessee Supreme Court also has a special panel that hears only Worker's Compensation cases. The Tennessee Supreme Court has the final word on all questions of state law. The state constitution requires that the Tennessee Supreme Court meet in Knoxville, Nashville, and Jackson. While sitting in each of these cities, the Tennessee Supreme Court hears appeals from its respective division of the state.

The creation of the intermediate appellate courts to handle routine civil and criminal appeals has enabled the Tennessee Supreme Court to concentrate on the most important issues of state law. The only cases that may bypass the intermediate level are those in which the principal question is whether a state statute or a local ordinance is constitutional. There is often a special need for a speedy decision in cases involving state taxes, the right to hold or retain public office, or issues of constitutional law. In such cases, the Tennessee Supreme Court may decide to hear a case even without a decision by the Court of Appeals as long as one of the parties to the case requests Tennessee Supreme Court review. The only cases in which the Tennessee Supreme Court *must* grant review are those involving the death penalty, disciplinary actions against attorneys, and tenure of teachers. Thus, for the most part, the Tennessee Supreme Court has control over its agenda.

In addition to supervising how other judges interpret state law, the Tennessee Supreme Court plays an important role in supervising the administration of the state court system. To this end, the Tennessee Supreme Court determines the rules of procedure for itself and all the other state courts.

(See also "Citizen's Handbook: Understanding Your Court System" available at www.tsc.state.tn.us/geninfo/Publications/citizenbook-revised.pdf; "The Tennessee Court System" at <http://web.utk.edu/~scheb/tncourts.html>)

APPENDIX TWO

The Federal Court System: Functions and Jurisdictions

The Federal Court System: When you should file in federal court

There are federal courts located in every state. Tennessee has three separate federal districts located in West, Middle, and East Tennessee. Tennessee is part of the 6th Circuit of federal courts, along with Kentucky, Ohio, and Michigan. Generally, in order for a case to be heard in federal court, the case must meet certain threshold requirements.

First, under the U.S. Constitution, federal courts exercise only judicial powers. This means that federal judges may interpret the law only by resolving actual legal disputes. A court cannot attempt to correct a legal problem just because it thinks one exists, nor can it answer a hypothetical legal question. Instead, an actual person or persons must be damaged by another or by a law. This person or persons must then bring a legal action in order to redress his or her wrong.

Second, assuming there is an actual case, the plaintiff in a federal lawsuit must have legal “standing” to ask the court for a decision. “Standing” refers to the requirement that the plaintiff suffer an actual harm by the defendant or by an applicable law.

Third, the case must present a type of dispute that the questionable law was designed to address. The case must also involve a complaint that the court has the power to remedy. In other words, the court must be authorized, under the Constitution or a federal law, to hear the case and grant appropriate relief to the plaintiff.

Finally, the case must present an ongoing problem that the court is permitted to resolve. The harm cannot be theoretical or without merit. Moreover, the federal courts only can decide the types of cases allowed by Congress under, or otherwise identified in, the Constitution.

The details of federal jurisdiction are complex and beyond the scope of this brief description. However, federal courts hear two main types of cases: (1) cases involving federal law questions, and (2) cases involving diversity jurisdiction.

- (1) Federal Question Jurisdiction: A case that involves a question of federal law may be filed in a federal court. In general, federal courts may decide cases that involve the U.S. government, the U.S. Constitution, federal laws, or controversies between states or between the United States and foreign governments.
- (2) Diversity Jurisdiction: A case may be filed in federal court based on diversity of citizenship, where the parties are citizens of different states, or citizens of the United States and another country. To make sure the court is fair to the out-of-state party, the U.S. Constitution allows these cases to be heard in federal court.

****Only Diversity Jurisdiction cases involving more than \$75,000 in potential damages for each plaintiff may be filed in federal court. Claims below that amount must be pursued in state court. Additionally, any Diversity Jurisdiction case, regardless of the amount of money involved, may be brought in a state court rather than a federal court. For a more complete explanation of who may file in federal court and when, see Rules 8, 12, and 17(b) of the Federal Rules of Civil Procedure.**

Although federal courts are located in every state, they are not the only forum available to those who want to file suit. In fact, the great majority of legal disputes in American courts are addressed in the state courts. For example, state courts have jurisdiction over virtually all divorce and child custody matters, probate and inheritance issues, real estate questions, and juvenile matters, and they handle most criminal cases, contract disputes, traffic violations, and personal injury cases. (*See Appendix One.*)

The Federal Courts: How They Work

1) Trial Courts

The United States District Courts are the general trial courts in the federal court system. There also are two special federal trial courts that have the authority to hear certain types of cases throughout the country: the Court of International Trade and the United States Court of Federal Claims.

- A. District Court: Within limits set by Congress and the Constitution, the district courts have jurisdiction to hear nearly all categories of federal cases, including both civil and criminal matters. There are ninety-four federal judicial districts, including at least one district in each state, the District of Columbia, and Puerto Rico. Each district also includes a United States Bankruptcy Court. Three territories of the United States — the Virgin Islands, Guam, and the Northern Mariana Islands — have district courts that hear federal cases, including bankruptcy cases.
- B. Court of International Trade: The Court of International Trade addresses cases involving international trade and customs issues only.
- C. The United States Court of Federal Claims: The United States Court of Federal Claims has jurisdiction over most claims for money damages against the United States, disputes over federal contracts, unlawful “takings” of private property by the federal government, and a variety of other claims against the United States.

2) *Appellate Courts*

The ninety-four judicial districts are organized into twelve regional circuits, each of which has a United States Court of Appeals. A thirteenth Court of Appeals hears cases involving certain specialized matters.

- A. Court of Appeals: A Court of Appeals hears cases appealed from the district courts located within its circuit, as well as appeals from decisions of federal administrative agencies. There are twelve regional branches of the Court of Appeals.
- B. Court of Appeals for the Federal Circuit: The Federal Circuit Court of Appeals can hear specialized cases from anywhere in the country, such as those involving patent laws and cases decided by the Court of International Trade and the United States Court of Federal Claims. There is only one Court of Appeals for the Federal Circuit.

3) *The United States Supreme Court*

The United States Supreme Court consists of the Chief Justice of the United States and eight associate justices. The United States Supreme Court may decide which cases it wishes to hear, as long as it abides by certain guidelines established by Congress. The United States Supreme Court only hears a fraction of the cases it is asked to decide each year. Those cases may begin in the federal or state courts, and they usually involve important questions about the U.S. Constitution or federal law.

(See also “Understanding the Federal Courts,” available at www.uscourts.gov/UFC99.pdf)

APPENDIX THREE

Tennessee Sentencing Guidelines

The Tennessee Sentencing Guidelines consist of statutes and related comments that help judges decide what sentences to give defendants if they are found guilty in a Tennessee court of law. Sections of the Tennessee Sentencing Commission's Comments have been included only where the Editors deemed them necessary.

GENERALLY

Tennessee follows the sentencing guidelines created by the Tennessee Sentencing Commission. The Commission has come up with a number of rules and guidelines and has written them into the Tennessee Code Annotated. It is important to note, however, that the statutes allowing courts to lengthen an offender's sentence for any reason other than his or her prior offenses (*See* §40-35-101 below) may soon change. Because of a recent decision by the United States Supreme Court, the Tennessee Attorney General has opined that it is unconstitutional for a judge to enhance an offender's sentence for any reason other than prior convictions or another factor admitted by the offender. Indeed, according to the Attorney General, a Tennessee judge is never authorized to give a sentence that is more than the maximum sentence for the defendant's type of offense and sentencing range as defined in the statutes below. Therefore, the Tennessee legislature soon may revise those portions of the sentencing guidelines that give judges this discretion. Most sections will remain unaffected, including §§40-35-105 through 109 that classify the sentencing range for each type of offense.

(*See Blakely v. Washington*, 124 S.Ct. 2531 (2004); Tennessee Attorney General Opinion No. 04-131 (August 13, 2004)).

Tenn. Code Ann. §40-35-101 (2004): Short Title

This chapter shall be known and may be cited as the "Tennessee Criminal Sentencing Reform Act of 1989."

SENTENCING COMMISSION COMMENTS:

. . . [A]ll felony offenses are classified based on severity of offense with letter designations: the most serious felonies graded as Class A and the least serious as Class E. Misdemeanors are similarly graded. The substantive criminal code revision sets forth the class of each felony or misdemeanor based on the nature of the offense. One attribute of this classification system is to treat like offenses the same for punishment purposes. Thus, all theft and theft related offenses are "graded" based on the amount of property taken. The classification of offenses also permits the construction of a sentencing grid so that the potential sentence for each offender can be rapidly ascertained. Each felony class carries a maximum and minimum sentence. Thus, a Class A felony can be punished from between 15 and 60 years. See §40-35-112. The 15 to 60 year span is divided into three

ranges called Range I, Range II and Range III. The "range" determination is based upon the number of prior convictions which, in turn, determines the potential span for that particular offender. Thus, a Range I sentence for a Class A felony is 15 to 25 years. A Range II sentence for a Class A felony is 25 to 40 years, and a Range III sentence is from 40 to 60 years. . . .

Tenn. Code Ann. §40-35-102 (2004): Purposes

The foremost purpose of this chapter is to promote justice, as manifested by §40-35-103. In so doing, the following principles are hereby adopted:

- 1) Every defendant shall be punished by the imposition of a sentence justly deserved in relation to the seriousness of the offense;
- 2) This chapter is to assure fair and consistent treatment of all defendants by eliminating unjustified disparity in sentencing and providing a fair sense of predictability of the criminal law and its sanctions;
- 3) Punishment shall be imposed to prevent crime and promote respect for the law by:
 - A) Providing an effective general deterrent to those likely to violate the criminal laws of this state;
 - B) Restraining defendants with a lengthy history of criminal conduct;
 - C) Encouraging effective rehabilitation of those defendants, where reasonably feasible, by promoting the use of alternative sentencing and correctional programs that elicit voluntary cooperation of defendants; and
 - D) Encouraging restitution to victims where appropriate;
- 4) Sentencing should exclude all considerations respecting race, gender, creed, religion, national origin and social status of the individual;
- 5) In recognition that state prison capacities and the funds to build and maintain them are limited, convicted felons committing the most severe offenses, possessing criminal histories evincing a clear disregard for the laws and morals of society, and evincing failure of past efforts at rehabilitation shall be given first priority regarding sentencing involving incarceration; and
- 6) A defendant who does not fall within the parameters of subdivision (5) and who is an especially mitigated or standard offender convicted of a Class C, D or E felony is presumed to be a favorable candidate for alternative sentencing options in the absence of evidence to the contrary.

Tenn. Code Ann. §40-35-103 (2004): Sentencing considerations

To implement the purposes of this chapter, the following principles apply:

- 1) Sentences involving confinement should be based on the following considerations:
 - A) Confinement is necessary to protect society by restraining a defendant who has a long history of criminal conduct;
 - B) Confinement is necessary to avoid depreciating the seriousness of the offense or confinement is particularly suited to provide an effective deterrence to others likely to commit similar offenses; or

- C) Measures less restrictive than confinement have frequently or recently been applied unsuccessfully to the defendant;
- 2) The sentence imposed should be no greater than that deserved for the offense committed;
- 3) Inequalities in sentences that are unrelated to a purpose of this chapter should be avoided;
- 4) The sentence imposed should be the least severe measure necessary to achieve the purposes for which the sentence is imposed;
- 5) The potential or lack of potential for the rehabilitation or treatment of the defendant should be considered in determining the sentence alternative or length of a term to be imposed. The length of a term of probation may reflect the length of a treatment or rehabilitation program in which participation is a condition of the sentence; and
- 6) Trial judges are encouraged to use alternatives to incarceration that include requirements of reparation, victim compensation and/or community service.

Tenn. Code Ann. §40-35-104 (2004): Sentencing alternatives

- a) A defendant convicted of a felony or a misdemeanor in this state shall be sentenced in accordance with this chapter.
- b)
 - 1) A defendant who is convicted of a felony after November 1, 1989, and who is sentenced to a total sentence of at least one (1) year, but not more than three (3) years, shall not be sentenced to serve such sentence in the department of correction, if the legislative body for the county from which the defendant is being sentenced has either contracted with the department, or has passed a resolution which expresses an intent to contract for the purpose of housing convicted felons with such sentences. If the sentencing court concludes that incarceration is the appropriate sentencing alternative, such defendant must be sentenced to the local jail or workhouse and not to the department.
 - 2) A defendant who is convicted of a felony after November 1, 1989, and who is sentenced to at least one (1) year, but not more than six (6) years, shall not be sentenced to serve such sentence in the department if the defendant is being sentenced from a county with a population of not less than four hundred seventy-seven thousand eight hundred eleven (477,811) according to the 1980 federal census or any subsequent federal census, and the legislative body for any such county has contracted with the department or has passed a resolution which expresses an intent to contract for the purpose of housing convicted felons with such sentences. If the sentencing court concludes that incarceration is the appropriate sentencing alternative, such defendant must be sentenced to the local jail or workhouse and not to the department.
- c) The following sentencing alternatives in any appropriate combination are authorized for defendants otherwise eligible under this chapter:
 - 1) Payment of a fine either alone or in addition to any other sentence authorized by this subsection (c);
 - 2) Payment of restitution to the victim or victims either alone or in addition to any other sentence authorized by this subsection (c);

- 3) A sentence of confinement which is suspended upon a term of probation supervision which may include community service or restitution, or both;
- 4) A sentence of periodic confinement which may be served in a local jail or workhouse in conjunction with a term of probation;
- 5) A sentence of continuous confinement to be served in a local jail or workhouse in conjunction with a term of probation;
- 6) A sentence of continuous confinement in a local jail or workhouse;
- 7) Work release in accordance with §40-35-315;
- 8) A sentence of continuous confinement in the department if the conviction is for a felony and the sentence is at least one (1) year, unless:
 - A) Such a sentence is prohibited by subsection (b); or
 - B) The defendant is convicted of a violation of §39-14-103, involving property valued at less than one thousand dollars (\$ 1,000) and such defendant is sentenced as an especially mitigated offender as defined in §40-35-109, or a standard offender as defined in §40-35-105; or
- 9) A sentence to a community based alternative to incarceration in accordance with the provisions, including eligibility requirements, of chapter 36 of this title.
- d) This chapter does not deprive a court of any authority conferred by law, including, but not limited to, §40-35-313, to decree a forfeiture of property, suspend or cancel a license, remove a person from office, or impose costs and other monetary obligations if specifically authorized by law.
- e) This chapter does not prevent a court from imposing a sentence of death specifically authorized by law.

Tenn. Code Ann. §40-35-117 (2004): Applicability of chapter

- a) All persons who commit crimes on or after November 1, 1989, shall be tried and sentenced under the provisions of this chapter.
- b) Unless prohibited by the United States or Tennessee constitution, any person sentenced on or after November 1, 1989, for an offense committed between July 1, 1982 and November 1, 1989, shall be sentenced under the provisions of this chapter.
- c) For all persons who committed crimes prior to July 1, 1982, prior law shall apply and remain in full force and effect in every respect, including, but not limited to, sentencing, parole and probation.

SENTENCING COMMISSION COMMENTS:

2. Types of Felonies and Misdemeanors and Ranges of Time Served

There are different types, or levels, of felonies and misdemeanors. The type of crime committed determines how much time a person serves for the crime. The ranges of time to be served are determined by a judge depending on the number of prior offenses, if any, as well as any other factors admitted by the offender to the judge. Currently, the Tennessee Sentencing Guidelines also account for mitigating or enhancing factors, or, in other words, analyzing those elements of a crime that make the sentence better or worse for the defendant. An example of a mitigating factor is the absence of a prior criminal record. Examples of enhancement factors include the use of excessive cruelty in a crime or a prior criminal record. Currently, the

Tennessee Attorney General has stated that it is unconstitutional for a judge to look at any enhancement factors other than the defendant's prior convictions or something the defendant has admitted to the judge. The judge is not allowed to use his judgment to determine whether the crime was particularly heinous, etc. Thus, the Tennessee legislature may soon alter those parts of the Tennessee Sentencing Guidelines that affect the definition of enhancement factors.

****NOTE:** For definitions of “felony” and “misdemeanor,” see Appendix Four.

Tenn. Code Ann. §40-35-110 (2004): Classification of offenses

- a) Felonies are classified, for the purpose of sentencing, into five (5) categories:
 - 1) Class A felonies;
 - 2) Class B felonies;
 - 3) Class C felonies;
 - 4) Class D felonies; and
 - 5) Class E felonies.
- b) An offense designated a felony without specification as to category is a Class E felony.
- c) Misdemeanors are classified, for the purpose of sentencing, into three (3) categories:
 - 1) Class A misdemeanors;
 - 2) Class B misdemeanors; and
 - 3) Class C misdemeanors.
- d) An offense designated as a misdemeanor without specification as to category is a Class A misdemeanor.

Tenn. Code Ann. §40-35-111 (2004): Authorized terms of imprisonment and fines for felonies and misdemeanors

- a) A sentence for a felony is a determinate sentence.
- b) The authorized terms of imprisonment and fines for felonies are:
 - 1) Class A felony, not less than fifteen (15) nor more than sixty (60) years. In addition, the jury may assess a fine not to exceed fifty thousand dollars (\$ 50,000), unless otherwise provided by statute;
 - 2) Class B felony, not less than eight (8) nor more than thirty (30) years. In addition, the jury may assess a fine not to exceed twenty-five thousand dollars (\$ 25,000), unless otherwise provided by statute;
 - 3) Class C felony, not less than three (3) years nor more than fifteen (15) years. In addition, the jury may assess a fine not to exceed ten thousand dollars (\$ 10,000), unless otherwise provided by statute;
 - 4) Class D felony, not less than two (2) years nor more than twelve (12) years. In addition, the jury may assess a fine not to exceed five thousand dollars (\$ 5,000), unless otherwise provided by statute; and
 - 5) Class E felony, not less than one (1) year nor more than six (6) years. In addition, the jury may assess a fine not to exceed three thousand dollars (\$ 3,000), unless otherwise provided by statute.

- c) A sentence to pay a fine, when imposed on a corporation for an offense defined in title 39 or for any offense defined in any other title for which no special corporate fine is specified, is a sentence to pay an amount, not to exceed:
- 1) Three hundred fifty thousand dollars (\$ 350,000) for a Class A felony;
 - 2) Three hundred thousand dollars (\$ 300,000) for a Class B felony;
 - 3) Two hundred fifty thousand dollars (\$ 250,000) for a Class C felony;
 - 4) One hundred twenty-five thousand dollars (\$ 125,000) for a Class D felony; and
 - 5) Fifty thousand dollars (\$ 50,000) for a Class E felony.
- If a special fine for a corporation is expressly specified in the statute which defines an offense, the fine fixed shall be within the limits specified in the statute.
- (d) A sentence for a misdemeanor is a determinate sentence.
- (e) The authorized terms of imprisonment and fines for misdemeanors are:
- (1) Class A misdemeanor, not greater than eleven (11) months twenty-nine (29) days or a fine not to exceed two thousand five hundred dollars (\$ 2,500), or both, unless otherwise provided by statute;
 - (2) Class B misdemeanor, not greater than six (6) months or a fine not to exceed five hundred dollars (\$ 500), or both, unless otherwise provided by statute; and
 - (3) Class C misdemeanor, not greater than thirty (30) days or a fine not to exceed fifty dollars (\$ 50.00), or both, unless otherwise provided by statute.

Tenn. Code Ann. §40-35-112 (2004): Sentence ranges

- a) A "Range I" sentence is as follows:
- 1) For a Class A felony, not less than fifteen (15) nor more than twenty-five (25) years;
 - 2) For a Class B felony, not less than eight (8) nor more than twelve (12) years;
 - 3) For a Class C felony, not less than three (3) nor more than six (6) years;
 - 4) For a Class D felony, not less than two (2) nor more than four (4) years; and
 - 5) For a Class E felony, not less than one (1) nor more than two (2) years.
- b) A "Range II" sentence is as follows:
- 1) For a Class A felony, not less than twenty-five (25) nor more than forty (40) years;
 - 2) For a Class B felony, not less than twelve (12) nor more than twenty (20) years;
 - 3) For a Class C felony, not less than six (6) nor more than ten (10) years;
 - 4) For a Class D felony, not less than four (4) nor more than eight (8) years; and
 - 5) For a Class E felony, not less than two (2) nor more than four (4) years.
- c) A "Range III" sentence is as follows:
- 1) For a Class A felony, not less than forty (40) nor more than sixty (60) years;
 - 2) For a Class B felony, not less than twenty (20) nor more than thirty (30) years;
 - 3) For a Class C felony, not less than ten (10) nor more than fifteen (15) years;
 - 4) For a Class D felony, not less than eight (8) nor more than twelve (12) years; and
 - 5) For a Class E felony, not less than four (4) nor more than six (6) years.

Tenn. Code Ann. §40-35-118 (2004): Classification of prior felony offenses

For the purpose of determining the classification of felony offenses in title 39 committed prior to November 1, 1989, the following classifications shall be used:

<u>Code Section</u>	<u>Offense</u>	<u>Class</u>
39-3703	First degree criminal sexual conduct	A
39-1-604, 606	Conspiracy to take a human life	A
39-2-103	Assault with intent to commit first degree murder	A
39-2-202	First degree murder	A
39-2-212	Second degree murder	A
39-2-301(c)	Aggravated kidnapping	A
39-2-305	Prisoners holding hostages	A
39-2-304	Unlawful representation to obtain ransom	A
39-2-603	Aggravated rape	A
39-2-640	Abduction of female from parents or guardian for purposes of prostitution	A
39-3-201	Aggravated arson	A
39-3-701	Willful injury by explosives	A
39-5-803	Treason	A
39-6-109	Adulteration of foods, liquors or pharmaceuticals (death occurs)	A
39-6-204	Obstruction or damage to railroad tracks resulting in death	A
39-6-619(a)	Killing an officer while arresting a person on a charge of unlawful gaming	A
39-6-915(a)	Furnishing intoxicating liquor which results in death (second degree murder)	A
39-3704	Second degree criminal sexual conduct	B
39-1-607	Conspiracy to sabotage a nuclear production facility	B
39-1-609	Conspiracy to commit illegal act capable of destroying human life by possession, use or transportation of explosives	B
39-1-610	Conspiracy by convicts to kill	B
39-2-301(e)	Assault with intent to commit or attempt to commit aggravated kidnapping	B

39-2-303	Kidnapping child under 16	B
39-2-501	Robbery by use of a deadly weapon	B
39-2-502	Bank robbery	B
39-2-604	Rape	B
39-2-606	Aggravated sexual battery	B
39-3-210	Causing injury to person by use of fire bomb	B
39-4-422	Aggravated child abuse	B
39-5-712	Rebellion by convict with intent to kill or escape	B
39-6-109	Adulteration of food product or drug (injury)	B
39-6-203	Obstruction or damage to railroad tracks resulting in injury	B
39-6-417(a)(1)(A)	Manufacture, delivery, sale or possession with intent to do same of Schedule I controlled substance	B
39-6-417(c)	Manufacture, delivery or sale of certain amount of controlled substances	B
39-6-417(d)	Habitual drug offender	B
39-6-418	Person over 18 distributing Schedule I controlled substance to person under 18 who is at least 3 years such person's junior	B
39-6-418	Person over 18 distributing Schedule II controlled substance to person under 18 who is at least 3 years such person's junior	B
39-6-419	Second or subsequent conviction for violation of §39-6- 417, Schedule I	B
39-6-419	Second or subsequent conviction for violation of §39-6- 417, Schedule II	B
39-6-619(b)	Wounding officer while arresting person on charge of unlawful gaming	B
39-6-1137	Using minors for obscene purposes	B
39-1-503	Attempt to commit sabotage	C
39-1-606	Conspiracy to inflict punishment, take human life or burn or destroy property	C
39-1-610	Conspiracy by convicts to escape	C
39-2-101	Aggravated assault	C
39-2-107	Assault from ambush with a deadly weapon	C
39-2-109	Assault with deadly weapon while in disguise	C

39-2-110	Assault by a juvenile 16 or older confined in an institution	C
39-2-111	Mayhem	C
39-2-112	Malicious shooting or stabbing	C
39-2-115	Shooting or throwing missile calculated to cause death or bodily injury at or into a dwelling or vehicle	C
39-2-116	Throwing object at common carrier vehicle with intent to do bodily harm where bodily harm occurs	C
39-2-117	Injury to person during state of emergency	C
39-2-118	Negligence by steamboat operator causing death	C
39-2-222	Voluntary manslaughter	C
39-2-231(a)	Vehicular homicide as a result of conduct creating substantial risk of death or serious bodily injury	C
39-2-231(b)	Vehicular homicide as a result of driver's intoxication	C
39-2-234	Negligence by train operator resulting in death	C
39-2-302	Kidnapping	C
39-2-501	Robbery	C
39-2-608(a)	Assault with intent to commit rape	C
39-2-612	Crimes against nature	C
39-2-613	Forcible marriage or abduction of female	C
39-3-202	Setting fire or procuring same on building or structure	C
39-3-205	Burning of insured property	C
39-3-401	Burglary of dwelling by night	C
39-3-403	Burglary of dwelling by day	C
39-3-702	Manufacture/possession of explosives for burglarious purposes or burglary with explosives	C
39-3-703	Malicious injury to structures with explosives	C
39-4-306	Incest	C
39-5-101	Bribery or offering to bribe officer	C
39-5-102	Officer accepting bribe	C
39-5-103	Bribing or offering to bribe peace officer or state, county or municipal employee	C
39-5-105	Bribery of court official or juror	C
39-5-106	Court official or juror accepting bribe	C

39-5-108	Offering bribe to officer selecting or summoning jury	C
39-5-109	Officer accepting bribe or permitting deputy to violate §39-5-108 or §39-5-420	C
39-5-112(a)	Bargaining sales in regard to public office	C
39-5-112(b)	Sale of public office	C
39-5-112(c)	Offer to buy public office	C
39-5-112(d)	Refusal to qualify and discharge duties of public office by reason of pecuniary consideration	C
39-5-112(e)	Procuring resignation of officer	C
39-5-115	Bribery of witness in felony prosecution	C
39-5-201	Introduction of prohibited items upon or onto grounds of penal institution	C
39-5-202	Introduction of weapons or drugs in the local jail or workhouse	C
39-5-408	Use of public money by state treasurer or other public officer	C
39-5-409	Embezzlement of public money or property	C
39-5-508	Corruptly stealing, withdrawing or avoiding records and judicial proceedings	C
39-5-522	Juror agreeing to give verdict or receiving improper evidence	C
39-5-804	Misprision of treason	C
39-5-805	Sedition	C
39-5-813	Destruction, injury or interference with property so as to hinder preparation for defense or war	C
39-5-814	Causing defects in war preparation	C
39-6-417(a)(1)(B)	Manufacture, delivery, sale or possession of Schedule II controlled substances	C
39-6-418	Person over 18 distributing Schedule III controlled substances to person under 18 who is 3 years such person's junior	C
39-6-418	Person over 18 distributing Schedule IV controlled substances to person under 18 who is 3 years such person's junior	C
39-6-419	Second or subsequent conviction for violation of §39-6-417, Schedule III	C

39-6-419	Second or subsequent conviction for violation of §39-6-417, Schedule IV	C
39-6-915(a)	Furnishing intoxicating liquor which causes death (voluntary manslaughter)	C
39-6-915(b)	Furnishing intoxicating liquor which causes paralysis or impairment of sight	C
39-6-1138(b)	Promoting performances which include sexual conduct by child	C
39-6-1138(c)	Parents consenting to child's participation in performance which includes sexual conduct	C
39-3705	Third degree criminal sexual conduct	D
39-1-504	Attempt to destroy property by fire bomb	D
39-1-604(a)	Conspiracy to commit felony on person of another	D
39-1-604	Conspiracy to indict or prosecute innocent person for felony	D
39-1-605	Conspiracy to commit offense against state or violate election laws	D
39-1-606	Conspiracy to destroy property	D
39-1-608	Conspiracy to commit arson	D
39-1-609	Conspiracy to commit illegal act capable of destroying property by possession, use or transportation of explosives	D
39-1-613	Conspiracy to use fire bomb	D
39-2-104	Assault with intent to commit robbery	D
39-2-701	Threats for purpose of extortion or obtaining action	D
39-2-702	Use of intimidation or coercion to influence state official	D
39-2-707	Night riders using intimidation to prevent disposal of farm products	D
39-2-708	Night riders using intimidation to compel dismissal of laborers	D
39-2-709	Inciting or conspiring to commit offense under §39-2-707 or §39-2-708	D
39-2-710	Burning of cross or religious symbol	D
39-3-125	Stealing livestock	D
39-3-129	Receiving stolen livestock	D

39-3-204	Setting fire to any material or thing with intent to burn building or other thing	D
39-3-402	Breaking after entry into dwelling	D
39-3-404	Burglary of business	D
39-3-505	Misuse of credit card over \$ 200	D
39-3-506	Misrepresentation of amount of money, goods, and services furnished on credit card where difference exceeds \$ 100	D
39-3-512	Obtaining goods, property or services by false or fraudulent use of credit card over \$ 200	D
39-3-607	Interference with E.F.T.S. system	D
39-3-703(a)	Malicious injury to structures with explosives	D
39-3-901	Obtaining property by false pretense over \$ 200	D
39-3-902	Receiving property obtained under false pretense over \$ 200	D
39-3-906	Fraudulent breach of trust by disposition of collateral or proceeds under security agreement over \$ 200	D
39-3-907	Fraudulent breach of trust over \$ 200	D
39-3-927(a)	Disposal of consumer goods subject to UCC security interest over \$ 200	D
39-3-927(b)	Disposal of property covered by mortgage or trust deed over \$ 200	D
39-3-932	Destruction or concealment of public records over \$ 200	D
39-3-946	False personation to obtain property over \$ 200	D
39-3-1104	Grand larceny	D
39-3-1106	Larceny from the person	D
39-3-1107	Feloniously stealing or taking by robbery any public records or valuable papers	D
39-3-1109	Corruptly stealing, withdrawing or avoiding public papers	D
39-3-1111	Severing and carrying away fixtures, products or minerals from land over \$ 200	D
39-3-1112	Receiving stolen goods valued over \$ 200	D
39-3-1114	Receiving personal property stolen out of state over \$ 200	D
39-3-1115	Bringing stolen property into state over \$ 200	D
39-3-1116	Receiving stolen public records or valuable papers	D

39-3-1117	Wrongful appropriation of property found over \$ 200	D
39-3-1118	Appropriation of property by person having custody over \$ 200	D
39-3-1119	Contract of bailment or agency to make wrongful appropriation over \$ 200	D
39-3-1120	Conversion of trust fund by executor, administrator, guardian or trustee over \$ 200	D
39-3-1121	Embezzlement by private officer, clerk or employee over \$ 200	D
39-3-1123	Receiving embezzled property over \$ 200	D
39-3-1132	Transfer of recorded devices or manufacture or distribution without consent of owner (second offense)	D
39-3-1404(b)	Intentionally damaging or destroying computer system	D
39-3-1404(c)	Concealing proceeds of computer crime	D
39-4-206	Failure to preserve life of infant prematurely born alive during abortion	D
39-5-104	Peace officer or state, county or municipal employee accepting bribe	D
39-6-211	Destruction of steamboat of value over \$ 500	D
39-6-417(a)(1)(C)	Manufacture, delivery or sale of Schedule III controlled substance	D
39-6-417(a)(1)(D)	Manufacture, delivery or sale of Schedule IV controlled substance	D
39-6-418	Person over 18 distributing Schedule V controlled substances to person under 18 who is 3 years such person's junior	D
39-6-418	Person over 18 distributing Schedule VI controlled substances to person under 18 who is 3 years such person's junior	D
39-6-418	Person over 18 distributing Schedule VII controlled substance to person under 18 who is 3 years such person's	D
39-6-419	Second or subsequent conviction for violation of §39-6-417, Schedule V	D
39-6-419	Second or subsequent conviction for violation of §39-6-417, Schedule VI	D
39-6-419	Second or subsequent conviction for violation of §39-6-417, Schedule VII	D

39-1-307	Accessories after the fact	E
39-1-504	Attempt to destroy property by fire bomb	E
39-1-506	Attempt to destroy property by placing explosives	E
39-1-611	Conspiracy by juvenile 16 or older confined in an institution to commit offenses outlined in §39-1-110 (assault by juvenile 16 or older confined in institution), §39-2-344 (participation in riot by juvenile 16 or older confined in an institution)	E
39-1-614	Conspiracy to commit sabotage	E
39-1-615	Conspiracy to riot	E
39-2-102	Assault with intent to commit felony	E
39-2-118	Negligence by steamboat operator causing injury	E
39-2-223	Involuntary manslaughter	E
39-2-605	Statutory rape	E
39-2-607	Sexual battery	E
39-2-608(b)	Assault with intent to commit sexual battery	E
39-2-635	Procuring female for prostitution	E
39-2-639	Enticing female, previously reputed virtuous, to house of ill fame	E
39-3-102	Unlawful killing of horses, cattle, or sheep	E
39-3-105	Animal fighting other than cocks	E
39-3-203	Setting fire to property other than building or structure	E
39-3-206	Maliciously setting a fire on land of another	E
39-3-209	Causing fire of personal property by use of fire bomb	E
39-3-211	Possession of fire bomb or materials	E
39-3-212	Manufacture or disposal of fire bomb	E
39-3-301	Knowingly drawing check or order in excess of \$ 100 without sufficient funds	E
39-3-306	Employer giving employee check in excess of \$ 100 with fraudulent intent	E
39-3-406	Breaking into vehicles	E
39-3-408	Carrying burglary tools	E
39-3-503	False statement to procure credit card	E
39-3-504	Credit card theft or forgery	E
39-3-505	Misuse of credit card under \$ 200	E

39-3-506	Misrepresentation of amount of money, goods or services furnished on credit card where difference does not exceed \$ 100	E
39-3-507	Completion of incomplete credit card or duplication without consent of owner	E
39-3-508	Receipt of money, goods or services obtained in violation of credit card laws	E
39-3-512	Obtaining goods, property or services by false or fraudulent use of credit card under \$ 200	E
39-3-603	Making false statements to obtain issuance of debit card	E
39-3-604	Debit card offenses under \$ 200	E
39-3-605	Misuse of debit cards under \$ 200	E
39-3-606	Completion of incomplete or duplication of debit card without consent of owner	E
39-3-608	Use of stolen cards or illegally possessed debit card	E
39-3-609	Misrepresentation of amount of money, goods or services furnished on debit card	E
39-3-610	Card holder using card after reporting it stolen or lost	E
39-3-703(b)	Malicious injury to personal property over \$ 25.00 with explosives	E
39-3-706	Unauthorized possession or transportation of explosives	E
39-3-710	False or malicious reports of explosives in building or structure	E
39-3-711	Convicted felon carrying explosives	E
39-3-803	Forging or counterfeiting of instrument or currency	E
39-3-804	Transfer of forged paper	E
39-3-805	Making counterfeit instrument of fictitious corporation or person	E
39-3-806	Affixing fictitious signature to instrument of fictitious corporation or company	E
39-3-807	Passing counterfeit bank bill which circulates as currency	E
39-3-808	Possession of counterfeit bank bill	E
39-3-809	Completing counterfeit bills or instruments	E
39-3-810	Altering counterfeit bills or instruments	E
39-3-811	Preparation of counterfeit stamp or plate	E
39-3-812	Possession of counterfeit stamp or plate	E

39-3-813	Making bank paper	E
39-3-814	Making or mending paper, molds, or machines used in preparing bank paper	E
39-3-815	Counterfeiting coin	E
39-3-816	Adulteration of coin	E
39-3-817	Possession or passing of counterfeit coin	E
39-3-818	Making or concealing counterfeit machine	E
39-3-819	Making or possessing adulterated metal for conversion into counterfeit coin	E
39-3-901	Obtaining property by false pretense under \$200	E
39-3-902	Receiving property obtained under false pretense under \$ 200	E
39-3-906	Fraudulent breach of trust by disposition of collateral proceeds under security agreement under \$ 200	E
39-3-907	Fraudulent breach of trust under \$ 200	E
39-3-913	Selling animal under false representation of pedigree	E
39-3-914	Giving false impression of death	E
39-3-919(a)	Packing foreign objects in cotton or tobacco	E
39-3-919(b)	Person from adjoining state selling cotton containing foreign objects in this state	E
39-3-926(b)	Removal from state of personal property subject to UCC security interest	E
39-3-926(c)	Removal from state of property embraced by mortgage or trust deed	E
39-3-926(d)	Removal from state of property the title to which is retained under conditional sales contract	E
39-3-927(a)	Disposal of consumer goods subject to UCC security interest under \$ 200	E
39-3-927(b)	Disposal of property covered by mortgage or trust deed under \$ 200	E
39-3-930	Granting of security interest in personal property without title	E
39-3-932	Destruction or concealment of public record under \$ 200	E
39-3-933	Destruction or concealment of will	E

39-3-936	Second or subsequent conviction for possession, sale or transfer of any apparatus for theft of telecommunication service	E
39-3-944	Falsification of medical records or hospital bill	E
39-3-946	False personation to obtain property under \$ 200	E
39-3-948	False or fraudulent insurance claim	E
39-3-949	False entries in books or records with intent to defraud	E
39-3-951	Issuing false stock certificates	E
39-3-1104	Petit larceny	E
39-3-1111	Severing and carrying away fixtures, products or minerals from land under \$ 100	E
39-3-1113	Receiving stolen goods valued under \$ 200	E
39-3-1114	Receiving personal property stolen out of state under \$ 200	E
39-3-1115	Bringing stolen property into state under \$ 200	E
39-3-1117	Wrongful appropriation of property found under \$ 200	E
39-3-1118	Appropriation of property by person having custody under \$ 200	E
39-3-1119	Contract of bailment or agency to make wrongful appropriation under \$ 200	E
39-3-1120	Conversion of trust fund by executor, administrator, guardian or trustee under \$ 200	E
39-3-1121	Embezzlement by private officer, clerk or employee under \$ 200	E
39-3-1123	Receiving embezzled property under \$ 200	E
39-3-1124	Third or subsequent shoplifting conviction	E
39-3-1125	Third or subsequent conviction for concealment of unpurchased goods (regardless of value of merchandise concealed)	E
39-3-1126	Theft, embezzlement or copying trade secret	E
39-3-1132	Transfer of recorded devices or manufacture or distribution without consent of owner	E
39-3-1134	Offenses against parking meter	E
39-3-1135	Third offense for unauthorized taking, concealing or possession of library material	E
39-3-1206	Malicious trespass on farmland	E

39-3-1311	Destruction of land or line marks	E
39-3-1313	Destruction of tobacco plant bed or other plant beds; aiding and abetting destruction of plant bed	E
39-3-1318	Cutting or removing timber from land of another for purpose of marketing	E
39-3-1320	Cutting or destroying building or fences on public land	E
39-3-1324	Tapping or entering telegraph, telephone, electric light and poles or gas lines	E
39-3-1327	Vandalism of houses of worship, graveyards, cemetery and excavation and archaeological sites	E
39-3-1404(a)	Willfully gaining access to computer system with intent to defraud	E
39-4-111	Leaving state after abandoning wife	E
39-4-112	Leaving state after abandoning child	E
39-4-113	Leaving state after court order for support	E
39-4-201	Performance of criminal abortion	E
39-4-202	Failure to obtain consent before abortion	E
39-4-208	Unlawful research and experimentation upon aborted fetus	E
39-4-301	Bigamy	E
39-4-304	Marrying husband or wife of another	E
39-4-305	Teaching or inducing to practice polygamy	E
39-4-307	Begetting child on wife's sister	E
39-4-402	Exposing child to inclement weather	E
39-5-114	Bribery of or acceptance of bribe in connection with athletic sporting event	E
39-5-301	Personating another in judicial proceedings	E
39-5-407	State treasurer or other officer receiving interest or reward for deposit of public funds	E
39-5-415	Officer having custody of a convicted felon voluntarily permitting escape	E
39-5-416	Penitentiary official voluntarily permitting escape	E
39-5-420	Corruptly appointing jurors	E
39-5-421	False certification that conveyance of property was proven or acknowledged	E

39-5-422	False noting, recording, registering or certifying conveyance of property	E
39-5-433	Lobbying members of general assembly	E
39-5-434	Absence of legislator for purposes of obstruction of business of general assembly	E
39-5-435	Refusal of officer of bank or other corporation to deliver books or other documents to general assembly	E
39-5-501	Compounding offense punishable with death or life imprisonment	E
39-5-507	Encouraging disruption of communication to police and firefighters	E
39-5-509(a)	Interference with working of prisoners	E
39-5-509(b)	Leading mob to interfere with working of prisoners	E
39-5-521	Intimidation of juror's family	E
39-5-601	Perjury	E
39-5-604	Subornation of perjury	E
39-5-605	Perjury or subornation of perjury on trial for felony	E
39-5-606	Misstatement of facts in an affidavit for parole/pardon	E
39-5-701	Rescue of person in lawful custody for felony arrest or conviction	E
39-5-702	Escape or attempt to escape from penitentiary	E
39-5-703	Aiding and abetting escape or attempt to escape from penitentiary	E
39-5-706	Escape or attempt to escape from local jail or workhouse	E
39-5-708	Aiding or assisting prisoner to escape from place of confinement	E
39-5-711	Aiding inmate of state institution to escape	E
39-5-720	Bail jumping in case of felony	E
39-5-833	Membership in communist party	E
39-5-843	Mutilating or casting contempt on United States or Tennessee flag	E
39-5-847	Willful destruction or desecration of United States flag	E
39-5-848	Destruction of selective service card	E
39-6-108	Offering or giving poisonous treat, candy or gift to another	E
39-6-202	Obstruction of or injury to railroad tracks or equipment	E

39-6-208	Cutting or taking property of electric railway	E
39-6-210	Racing steamboat resulting in accident	E
39-6-212	Destruction of steamboat with value under \$ 500	E
39-6-310	Entering campuses, buildings, to incite public disturbance or violence	E
39-6-322	Participating in, organizing or inciting to riot	E
39-6-323	Interference with officers during riot	E
39-6-324	Looting	E
39-6-341	Entering school property to participate in riot	E
39-6-344	Participation in riot by juvenile 16 or older confined in an institution	E
39-6-345	Prisoners rioting or participating in riot	E
39-6-417	Third or subsequent conviction for possession of controlled substance without valid prescription	E
39-6-417(a)(1)(E)	Manufacture, delivery or sale of Schedule V controlled substance	E
39-6-417(a)(1)(F)	Manufacture, delivery or sale of Schedule VI controlled substance	E
39-6-417(a)(1)(G)	Manufacture, delivery or sale of Schedule VII controlled substance	E
39-6-452	Sale of glue for intoxication	E
39-6-454(a)	Sale of imitation controlled substance	E
39-6-454(b)	Manufacture of imitation controlled substance	E
39-6-608	Professional gambling	E
39-6-613	Keeping room or table for certain gambling	E
39-6-622	Keeping place for betting on horse race	E
39-6-626	Promoting prostitution	E
39-6-635	Illegally transporting pinball machine into state after 6/30/80	E
39-6-701	Destruction of cemetery monument or marker	E
39-6-702	Improper disposition of dead human body	E
39-6-705	Removal or disinterment of dead human body for purpose of sale	E

39-6-904	Second or subsequent violation of §39-6-902 (unlawful sale of alcoholic beverages) and § 39-6-903 (unlawful sale of intoxicating bitters)	E
39-6-908	Transportation of intoxicating liquors by common carrier (individual)	E
39-6-909	Personal transportation of intoxicating liquors	E
39-6-921	Second or subsequent conviction of unlawful storage of liquor for sale	E
39-6-1104	Third or subsequent conviction for importing, preparing, distributing, possessing or appearing in obscene material	E
39-6-1139	Solicitation of person to massage or expose erogenous are a for compensation or permitting such solicitation	E
39-6-1504	Filing fraudulent solicitation statement with secretary of state	E
39-6-1522	Unauthorized interstate solicitation for police, judicial or safety association	E
39-6-1609	Cutting or causing break in levee	E
39-6-1713	Manufacture, possession or sale of sawed-off shotgun, sawed-off rifle or machine gun	E
39-6-1716	Convicted felon carrying a firearm	E
39-6-1717	Carrying dangerous weapon into establishment licensed to sell alcoholic beverages	E
39-6-1718	Possession of deadly weapon on school grounds	E
39-6-1719	Sale or possession of exploding bullets	E

These classifications shall be used for sentencing after November 1, 1989, if the offense was committed on or after July 1, 1982, and prior to November 1, 1989, except first-degree murder, which shall be punished by death or life imprisonment.

Tenn. Code Ann. §40-35-119 (2004): Classification of prior unclassified felony offenses

Any prior felony offense committed between July 1, 1982 and November 1, 1989, which has not been classified pursuant to §40-35-118 or otherwise, is a Class E felony.

SENTENCING COMMISSION COMMENTS

5. Mitigating and Enhancement Factors

There is a range of time a person must serve for each crime, a minimum or maximum time before a person is eligible for parole (if he is eligible at all). A major factor in determining the length of a person's sentence is the number of prior convictions, if any, an offender has. In other words, depending on the number of prior offenses or anything else that the defendant admits to the judge, the sentence may be lengthened or reduced. Some of the statutes below call for the lengthening of a sentence due to factors other than a defendant's prior convictions or admissions to the judge. These statutes will soon be altered by the Tennessee legislature because of a recent Supreme Court decision holding such statutes to be unconstitutional.

MITIGATING FACTORS

The following statutes detail how a sentence may be reduced due to circumstances making a crime less severe. The statutes also explain who may have his or her sentences reduced.

Tenn. Code Ann. §40-34-108 (2004): Maximum reduction of sentence

- a) Notwithstanding any other provision of law to the contrary, no sentence credits authorized by §41-21-236 or any other provision of law, or no sentence contract authorized by this chapter or any other provision of law shall have the effect of reducing the amount of time an inmate must serve before the inmate's earliest release eligibility date, undiminished by any such sentence credits, by more than thirty-five percent (35%). For inmates sentenced for offenses committed on or after January 1, 1988, no such sentence credits or no such sentence contract shall have the effect of reducing the amount of time an inmate must serve before the inmate's earliest release eligibility date, undiminished by any such sentence credits, by more than thirty percent (30%). The sentencing commission shall review the effect of these provisions as part of its duties under law.
- b) As used in this section, "sentence credits" includes any credit, whether called such or not, that results in a reduction of the amount of time an inmate must serve on the original sentence or sentences. The provisions of this section shall not be applicable when the powers granted pursuant to title 41, chapter 1 are in effect to reduce prison overcrowding.

Tenn. Code Ann. §40-35-109 (2004): Especially mitigated offender

- a) The court may find the defendant is an especially mitigated offender, if:
 - 1) The defendant has no prior felony convictions; and
 - 2) The court finds mitigating, but no enhancement factors.
- b) If the court finds the defendant an especially mitigated offender, the court shall reduce the defendant's statutory Range I minimum sentence by ten percent (10%), or reduce the release eligibility date to twenty percent (20%) of the sentence, or both reductions. If the court employs both reductions, the calculation for release eligibility shall be made by first reducing the sentence and then reducing the release eligibility to twenty percent (20%).
- c) If the defendant is found to be an especially mitigated offender, the judgment of conviction shall so reflect.
- d) The finding that a defendant is or is not an especially mitigated offender is appealable by either party.

SENTENCING COMMISSION COMMENTS.

As noted in the comments to §40-35-101, sentences have been divided into one of three ranges. The sentencing ranges are governed by the presence or absence of prior convictions. If a defendant has little or no prior criminal record, such defendant would normally be sentenced within Range I as a standard offender. See §40-35-105. However, there are instances where the trial judge may desire to depart from even the minimum sentence for a Range I offender and impose lesser penalties. In such instances, the judge may designate the defendant as an "especially mitigated offender" under the provisions of this section. If the judge designates the defendant for this category, the judge has the option of reducing the minimum sentence by 10 percent or reducing the release eligibility date to 20 percent or both options. For example, a standard offender convicted of a Class C felony is normally subject to a three year minimum sentence as a standard Range I offender. The 10 percent reduction in the minimum sentence would result in a sentence of 2.7 years. The judge may further alter the normal 30 percent release eligibility date to 20 percent. . . .

Tenn. Code Ann. §40-35-113 (2004): Mitigating factors

If appropriate for the offense, mitigating factors may include, but are not limited to:

- 1) The defendant's criminal conduct neither caused nor threatened serious bodily injury;
- 2) The defendant acted under strong provocation;
- 3) Substantial grounds exist tending to excuse or justify the defendant's criminal conduct, though failing to establish a defense;
- 4) The defendant played a minor role in the commission of the offense;
- 5) Before detection, the defendant compensated or made a good faith attempt to compensate the victim of criminal conduct for the damage or injury the victim sustained;
- 6) The defendant, because of youth or old age, lacked substantial judgment in committing the offense;

- 7) The defendant was motivated by a desire to provide necessities for the defendant's family or the defendant's self;
- 8) The defendant was suffering from a mental or physical condition that significantly reduced the defendant's culpability for the offense; however, the voluntary use of intoxicants does not fall within the purview of this factor;
- 9) The defendant assisted the authorities in uncovering offenses committed by other persons or in detecting or apprehending other persons who had committed the offenses;
- 10) The defendant assisted the authorities in locating or recovering any property or person involved in the crime;
- 11) The defendant, although guilty of the crime, committed the offense under such unusual circumstances that it is unlikely that a sustained intent to violate the law motivated the criminal conduct;
- 12) The defendant acted under duress or under the domination of another person, even though the duress or the domination of another person is not sufficient to constitute a defense to the crime; or
- 13) Any other factor consistent with the purposes of this chapter.

SENTENCING COMMISSION COMMENTS.

It should be observed that the list is not exclusive and the final portion of this section provides that the trial judge may consider "any other factor consistent with the purposes of this chapter."

ENHANCEMENT FACTORS

The following statutes define and categorize certain offenders for the purposes of sentencing. Generally, the more often the person breaks the law, the longer the sentence. If the enhancement factors are especially severe, bail may be revoked. As stated above, some of these factors, such as those in §45-35-114 that do not involve the number of prior convictions and admissions by the defendant to a judge, will soon be altered by the Tennessee Legislature and should no longer be used in the courts.

Tenn. Code Ann. §40-35-105 (2004): Standard offender

- a) A "standard offender" is a defendant not sentenced as:
 - 1) A multiple offender as defined by §40-35-106;
 - 2) A persistent offender as defined by §40-35-107;
 - 3) A career offender as defined by §40-35-108;
 - 4) An especially mitigated offender as defined by §40-35-109; or
 - 5) A repeat violent offender as defined by §40-35-120.
- b) The sentence for a standard offender is within Range I.
- c) If the judgment of conviction does not include a sentence range, it shall be returned to the sentencing court to be completed.

Tenn. Code Ann. §40-35-106 (2004): Multiple offender

- a) A "multiple offender" is a defendant who has received:
 - 1) A minimum of two (2) but not more than four (4) prior felony convictions within the conviction class, a higher class, or within the next two (2) lower felony classes, where applicable; or
 - 2) One (1) Class A prior felony conviction if the defendant's conviction offense is a Class A or B felony.
- b) In determining the number of prior convictions a defendant has received:
 - 1) "Prior conviction" means a conviction for an offense occurring prior to the commission of the offense for which the defendant is being sentenced;
 - 2) All prior felony convictions, including those occurring prior to November 1, 1989, are included;
 - 3) A finding or adjudication that a defendant committed an act as a juvenile that would constitute a felony if committed by an adult, and which resulted in a transfer of such juvenile to criminal court pursuant to §37-1-134, or similar statutes of other states or jurisdictions, shall not be considered as a prior conviction for the purposes of this section unless such juvenile was convicted of a felony in a criminal court;
 - 4) Convictions for multiple felonies committed as part of a single course of conduct within twenty-four (24) hours, constitute one (1) conviction for the purpose of determining prior convictions; however, acts resulting in bodily injury or threatened bodily injury to the victim or victims shall not be construed to be a single course of conduct; and
 - 5) Prior convictions include convictions under the laws of any other state, government, or country which, if committed in this state, would have constituted an offense cognizable by the laws of this state. In the event that a felony from a jurisdiction other than Tennessee is not a named felony in this state, the elements of the offense shall be used by the Tennessee court to determine what classification the offense is given.
- c) A defendant who is found by the court beyond a reasonable doubt to be a multiple offender shall receive a sentence within Range II.
- d) The finding that a defendant is or is not a multiple offender is appealable by either party.

Tenn. Code Ann. §40-35-107 (2004): Persistent offender

- a) A "persistent offender" is a defendant who has received:
 - 1) Any combination of five (5) or more prior felony convictions within the conviction class or higher, or within the next two (2) lower felony classes, where applicable; or
 - 2) At least two (2) Class A or any combination of three (3) Class A or Class B felony convictions if the defendant's conviction offense is a Class A or B felony.
- b) In determining the number of prior convictions a defendant has received:
 - 1) "Prior conviction" means a conviction for an offense occurring prior to the commission of the offense for which the defendant is being sentenced;

- 2) All prior felony convictions including those occurring prior to November 1, 1989, are included;
 - 3) A finding or adjudication that a defendant committed an act as a juvenile that would constitute a felony if committed by an adult, and which resulted in a transfer of such juvenile to criminal court pursuant to §37-1-134, or similar statutes of other states or jurisdictions, shall not be considered as a prior conviction for the purposes of this section unless such juvenile was convicted of a felony in a criminal court;
 - 4) Convictions for multiple felonies committed as part of a single course of conduct within twenty-four (24) hours constitute one (1) conviction for the purpose of determining prior convictions; however, acts resulting in bodily injury or threatened bodily injury to the victim or victims shall not be construed to be a single course of conduct; and
 - 5) "Prior convictions" includes convictions under the laws of any other state, government or country which, if committed in this state, would have constituted an offense cognizable by the laws of this state. In the event that a felony from a jurisdiction other than Tennessee is not a named felony in this state, the elements of the offense shall be used by the Tennessee court to determine what classification the offense is given.
- c) A defendant who is found by the court beyond a reasonable doubt to be a persistent offender shall receive a sentence within Range III.
- d) The finding that a defendant is or is not a persistent offender is appealable by either party.

SENTENCING COMMISSION COMMENTS.

This section sets forth the criteria for enhanced sentencing as a persistent offender. A finding that a defendant is a persistent offender requires sentencing within Range III which not only carries higher criminal penalties, but an increased release eligibility date of 45 percent. See §40-35-501(e)

Tenn. Code Ann. §40-35-108 (2004): Career offender

- a) A "career offender" is a defendant who has received:
 - 1) Any combination of six (6) or more Class A, B or C prior felony convictions, and the defendant's conviction offense is a Class A, B or C felony;
 - 2) At least three (3) Class A or any combination of four (4) Class A or Class B felony convictions if the defendant's conviction offense is a Class A or B felony; or
 - 3) At least six (6) prior felony convictions of any classification if the defendant's conviction offense is a Class D or E felony.
- b) In determining the number of prior convictions a defendant has received:
 - 1) "Prior conviction" means a conviction for an offense occurring prior to the commission of the offense for which the defendant is being sentenced;
 - 2) All prior felony convictions including those occurring prior to November 1, 1989, are included;

- 3) A finding or adjudication that a defendant committed an act as a juvenile that would constitute a felony if committed by an adult, and which resulted in a transfer of such juvenile to criminal court pursuant to §37-1-134, or similar statutes of other states or jurisdictions, shall not be considered as a prior conviction for the purposes of this section unless such juvenile was convicted of a felony in a criminal court;
 - 4) Convictions for multiple felonies committed as part of a single course of conduct within twenty-four (24) hours constitute one (1) conviction for the purpose of determining prior convictions; however, acts resulting in bodily injury or threatened bodily injury to the victim or victims shall not be construed to be a single course of conduct; and
 - 5) "Prior convictions" includes convictions under the laws of any other state, government, or country which, if committed in this state, would have constituted an offense cognizable by the laws of this state. In the event that a felony from a jurisdiction other than Tennessee is not a named felony in this state, the elements of the offense shall be used by the Tennessee court to determine what classification the offense is given.
- c) A defendant who is found by the court beyond a reasonable doubt to be a career offender shall receive the maximum sentence within the applicable Range III.
- d) The finding that a defendant is or is not a career offender is appealable by either party.

SENTENCING COMMISSION COMMENTS.

This section sets forth the criteria for sentencing as a career offender. The types and number of prior felony convictions are set forth in subsection (a). A defendant sentenced as a career offender must receive the maximum sentence within Range III pursuant to the provisions of subsection (c). The release eligibility date is increased to 60 percent. See §40-35-501(f). . . .

Tenn. Code Ann. §40-35-114 (2004): Enhancement factors

If appropriate for the offense, enhancement factors, if not themselves essential elements of the offense as charged in the indictment, may include:

- 1) The offense was an act of terrorism, or was related to an act of terrorism;
- 2) The defendant has a previous history of criminal convictions or criminal behavior in addition to those necessary to establish the appropriate range;
- 3) The defendant was a leader in the commission of an offense involving two (2) or more criminal actors;
- 4) The offense involved more than one (1) victim;
- 5) A victim of the offense was particularly vulnerable because of age or physical or mental disability, including, but not limited to, a situation where the defendant delivered or sold a controlled substance to a minor within one thousand feet (1,000') of a public playground, public swimming pool, youth center, video arcade, low income housing project, or church;
- 6) The defendant treated or allowed a victim to be treated with exceptional cruelty during the commission of the offense;

- 7) The personal injuries inflicted upon or the amount of damage to property sustained by or taken from the victim was particularly great;
- 8) The offense involved a victim and was committed to gratify the defendant's desire for pleasure or excitement;
- 9) The defendant has a previous history of unwillingness to comply with the conditions of a sentence involving release in the community;
- 10) The defendant possessed or employed a firearm, explosive device or other deadly weapon during the commission of the offense;
- 11) (11) The defendant had no hesitation about committing a crime when the risk to human life was high;
- 12) (12) The felony resulted in death or bodily injury or involved the threat of death or bodily injury to another person and the defendant has previously been convicted of a felony that resulted in death or bodily injury;
- 13) (13) During the commission of the felony, the defendant willfully inflicted bodily injury upon another person, or the actions of the defendant resulted in the death of or serious bodily injury to a victim or a person other than the intended victim;
- 14) (14) The felony was committed while on any of the following forms of release status if such release is from a prior felony conviction:
 - A) Bail, if the defendant is ultimately convicted of such prior felony;
 - B) Parole;
 - C) Probation;
 - D) Work release; or
 - E) Any other type of release into the community under the direct or indirect supervision of the department of correction or local governmental authority;
- 15) The felony was committed on escape status or while incarcerated for a felony conviction;
- 16) The defendant abused a position of public or private trust, or used a special skill in a manner that significantly facilitated the commission or the fulfillment of the offense;
- 17) The crime was committed under circumstances under which the potential for bodily injury to a victim was great;
- 18) The defendant committed the offense while on school property;
- 19) A victim, under §39-15-402, suffered permanent impairment of either physical or mental functions as a result of the abuse inflicted;
- 20) If the lack of immediate medical treatment would have probably resulted in the death of the victim under §39-15-402;
- 21) The defendant was adjudicated to have committed a delinquent act or acts as a juvenile that would constitute a felony if committed by an adult;
- 22) The defendant, who was provided with court-appointed counsel, willfully failed to pay the administrative fee assessed pursuant to §40-14-103(b)(1); or
- 23) The defendant intentionally selects the person against whom the crime is committed or selects the property that is damaged or otherwise affected by the crime in whole or in part because of the actor's belief or perception regarding the race, religion, color, disability, sexual orientation, national origin, ancestry or gender of that person or of the owner or occupant of that property. However, this

subsection should not be construed so as to permit the enhancement of a sexual offense on the basis of gender selection alone.

Tenn. Code Ann. §40-35-115 (2004): Multiple convictions

- a) If a defendant is convicted of more than one (1) criminal offense, the court shall order sentences to run consecutively or concurrently as provided by the criteria in this section.
- b) The court may order sentences to run consecutively if the court finds by a preponderance of the evidence that:
 - 1) The defendant is a professional criminal who has knowingly devoted such defendant's life to criminal acts as a major source of livelihood;
 - 2) The defendant is an offender whose record of criminal activity is extensive;
 - 3) The defendant is a dangerous mentally abnormal person so declared by a competent psychiatrist who concludes as a result of an investigation prior to sentencing that the defendant's criminal conduct has been characterized by a pattern of repetitive or compulsive behavior with heedless indifference to consequences;
 - 4) The defendant is a dangerous offender whose behavior indicates little or no regard for human life, and no hesitation about committing a crime in which the risk to human life is high;
 - 5) The defendant is convicted of two (2) or more statutory offenses involving sexual abuse of a minor with consideration of the aggravating circumstances arising from the relationship between the defendant and victim or victims, the time span of defendant's undetected sexual activity, the nature and scope of the sexual acts and the extent of the residual, physical and mental damage to the victim or victims;
 - 6) The defendant is sentenced for an offense committed while on probation; or
 - 7) The defendant is sentenced for criminal contempt.
- c) The finding concerning the imposition of consecutive or concurrent sentences is appealable by either party.
- d) Sentences shall be ordered to run concurrently, if the criteria noted in subsection (b) are not met, unless consecutive sentences are specifically required by statute or the Tennessee Rules of Criminal Procedure.

Tenn. Code Ann. §40-35-116 (2004): Revocation of bail on conviction

- a) If a defendant is convicted of first degree murder, a Class A felony, aggravated robbery, aggravated sexual battery, aggravated kidnapping or a violation of §39-17-417(b) or (i), the judge shall revoke bail immediately, notwithstanding sentencing hearings, motions for a new trial and related post-guilt determination hearings.
- b) If a defendant is convicted of any other felony offense, the judge may revoke bail immediately, notwithstanding sentencing hearing, motion for a new trial and related post-guilt determination hearings.
- c) If the court revokes the defendant's bail, the defendant shall be housed in a local jail pending the sentencing determination. Following sentencing, the defendant shall be transferred to the custody of the authority to whom the defendant was sentenced.

- d) If a defendant is convicted of first degree murder, the judge may house the defendant in a local jail or may transfer custody to the department of correction pending further proceedings in the trial court.

Tenn. Code Ann. §40-35-120 (2004): Repeat violent offenders — "Three strikes"

- a) A "repeat violent offender" is a defendant who:
- 1) Is convicted in this state on or after July 1, 1994, of any offense classified in subdivision (b)(1) as a violent offense; and
 - 2) Has at least two (2) prior convictions for offenses classified in subdivision (b)(1) or (b)(2) as a violent offense; or
 - 3) Is convicted in this state on or after July 1, 1994, of any offense classified in subdivision (c)(1) as a violent offense; and
 - 4) Has at least one (1) conviction for an offense classified in subdivision (c)(1) or (c)(2) as a violent offense; or
 - 5) Is convicted in this state on or after July 1, 1995, of any offense classified in subdivision (d)(1) as a violent offense; and
 - 6) Has at least one (1) prior conviction for an offense classified in subdivision (d)(1) or (d)(2) as a violent offense with the exception of the prior offense of robbery by use of a deadly weapon as listed in §40-35-118.
- b)
- 1) For purposes of subdivisions (a)(1) and (a)(2), the following offenses are classified as violent offenses:
 - A) First degree murder, including any attempt, solicitation, or facilitation to commit first degree murder;
 - B) Second degree murder and any attempt or facilitation to commit second degree murder;
 - C) Especially aggravated kidnapping and any attempt or facilitation to commit especially aggravated kidnapping;
 - D) Especially aggravated robbery and any attempt or facilitation to commit especially aggravated robbery;
 - E) Aggravated rape and any attempt or facilitation to commit aggravated rape;
 - F) Rape of a child and any attempt or facilitation to commit rape of a child;
 - G) Aggravated arson and any attempt or facilitation to commit aggravated arson;
 - H) Aggravated kidnapping;
 - I) Aggravated robbery;
 - J) Rape;
 - K) Aggravated sexual battery;
 - L) Especially aggravated burglary;
 - M) Aggravated child abuse;
 - N) Aggravated sexual exploitation of minor; or
 - O) Especially aggravated sexual exploitation of a minor.
 - 2) For purposes of subdivision (a)(2), the offenses which were repealed on November 1, 1989, and are listed in §40-35-118 as Class A or B felonies against a person are classified as violent offenses.
- c)

- 1) For purposes of subdivisions (a)(3) and (a)(4), the following offenses are classified as violent offenses:
 - A) First degree murder including any attempt, solicitation, or facilitation to commit first degree murder;
 - B) Second degree murder;
 - C) Especially aggravated kidnapping;
 - D) Especially aggravated robbery;
 - E) Aggravated rape;
 - F) Rape of a child; or
 - G) Aggravated arson.
 - 2) For purposes of subdivision (a)(4), the offenses which were repealed on November 1, 1989, and are listed in §40-35-118 as Class A felonies against a person are classified as violent offenses.
- d)
- 1) For purposes of subdivisions (a)(5) and (a)(6), the following offenses are classified as violent offenses:
 - A) First degree murder;
 - B) Second degree murder;
 - C) Especially aggravated kidnapping;
 - D) Especially aggravated robbery;
 - E) Aggravated rape;
 - F) Rape of a child;
 - G) Aggravated arson;
 - H) Aggravated kidnapping;
 - I) Rape;
 - J) Aggravated sexual battery;
 - K) Especially aggravated burglary;
 - L) Aggravated child abuse;
 - M) Aggravated sexual exploitation of a minor; or
 - N) Especially aggravated sexual exploitation of a minor.
 - 2) For purposes of subdivision (a)(6), the offenses which were repealed on November 1, 1989, and are listed in §40-35-118 as Class A or B felonies against a person, with the exception of the offense of robbery by use of a deadly weapon, are classified as violent offenses.
- e) In determining the number of prior convictions a defendant has received:
- 1) "Prior conviction" means a defendant serves and is released from a period of incarceration for the commission of an offense or offenses so that a defendant must:
 - A) To qualify under subdivision (a)(1) and (a)(2), have served two (2) separate periods of incarceration for the commission of at least two (2) of the predicate offenses designated in subdivision (b)(1) or (b)(2) before committing an offense designated in subdivision (b)(1);
 - B) To qualify under subdivision (a)(3) and (a)(4), at least one (1) separate period of incarceration for the commission of a predicate offense designated in subdivision (c)(1) or (c)(2) before committing an offense designated in subdivision (c)(1); or

- C) To qualify under subdivision (a)(5) and (a)(6), at least one (1) separate period of incarceration for the commission of a predicate offense designated in subdivision (d)(1) or (d)(2), with the exception of the prior offense of robbery by use of a deadly weapon as listed in §40-35-118, before committing an offense designated in subdivision (d)(1);
- 2) "Separate period of incarceration" includes a sentence to a community correction program pursuant to chapter 36 of this title, a sentence to split confinement pursuant to §40-35-306, or a sentence to a periodic confinement pursuant to §40-35-307. Any offense designated as a violent offense pursuant to subsection (b), (c) or (d) that is committed while incarcerated or committed while such prisoner is assigned to a program whereby the prisoner enjoys the privilege of supervised release into the community, including, but not limited to, work release, educational release, restitution release, medical furlough or that is committed while on escape status from any correctional institution shall be considered as a separate period of incarceration; and
 - 3) A finding or adjudication that a defendant committed an act as a juvenile that is designated a predicate offense under subsection (b), (c) or (d) if committed by an adult, and which resulted in a transfer of such juvenile to criminal court pursuant to §37-1-134, or similar statutes of other states or jurisdictions, shall not be considered a prior conviction for the purposes of this section unless such juvenile was convicted of such predicate offense in a criminal court and sentenced to confinement in the department of correction; and
 - 4) "Prior convictions" include convictions under the laws of any other state, government or country which, if committed in this state, would have constituted a predicate offense in subsection (b), (c) or (d) if there are separate periods of incarceration in such other state as required by subdivision (e)(1). If a felony from a jurisdiction other than Tennessee is not a named predicate offense specified in subsection (b), (c) or (d) in this state, and if the elements of such felony are the same as such a designated predicate offense, it shall be considered a prior conviction; provided, that there are separate periods of incarceration in such other state as required in subdivision (e)(1).
- f) The court shall refuse to accept a plea agreement which fails to recommend that a defendant with a sufficient number of designated prior convictions be sentenced as a repeat violent offender. If the judge refuses to accept the plea agreement, this does not prevent the district attorney general in accordance with Rule 7 of the Tennessee Rules of Criminal Procedure from amending the indicted offense to an offense which is not designated as a violent offense in subsection (b) or (c).
 - g) The court shall sentence a defendant who has been convicted of any offense listed in subdivision (b)(1), (c)(1) or (d)(1) to imprisonment for life without possibility of parole if the court finds beyond a reasonable doubt that the defendant is a repeat violent offender as defined in subsection (a).
 - h) The finding that a defendant is or is not a repeat violent offender is appealable by either party.
 - i)

- 1) A charge as a repeat violent offender shall be tried within one hundred eighty (180) days of the arraignment on the indictment pursuant to Rule 10 of the Rules of Criminal Procedure unless delay is caused by:
 - A) The defendant;
 - B) An examination for competency;
 - C) A competency hearing;
 - D) An adjudication of incompetency for trial;
 - E) A continuance allowed after a court's determination of the defendant's physical incapacity for a trial; or
 - F) An interlocutory appeal. A continuance may be granted to any party, including the court, for good cause shown.
- 2) The district attorney general shall file a statement with the court and the defense counsel within forty-five (45) days of the arraignment pursuant to Rule 10 of the Rules of Criminal Procedure that the defendant is a repeat violent offender. Such statement, which shall not be made known to the jury determining the guilt or innocence of the defendant, shall set forth the dates of the prior periods of incarceration, as well as the nature of the prior conviction offenses. If such notice is not filed within forty-five (45) days of such arraignment, the defendant shall be granted a continuance so that such defendant will have forty-five (45) days between receipt of notice and trial.
- 3) Failure to comply with this subsection (i) does not require release of a person from custody or a dismissal of charges.

SPECIAL OFFENSES

Many times, the Sentencing Commission will set out special punishments for crimes it considers especially offensive or problematic, such as gang activity. Knowledge of this information may be useful if, for instance, the person involved in an animal crime is also a member of a gang and has prior such offenses that may or may not involve animals. In this case, a harsher punishment than that originally available may be sought.

Tenn. Code Ann. §40-35-121 (2004): Criminal gang offenses — Enhanced punishment – Procedure

- a) As used in this section, unless the context otherwise requires:
 - 1) "Criminal gang" means a formal or informal ongoing organization, association, or group consisting of three (3) or more persons that has:
 - A) As one (1) of its activities the commission of criminal acts; and
 - B) Two (2) or more members who, individually or collectively, engage in or have engaged in a pattern of criminal gang activity;
 - 2) "Criminal gang member" is a person who is a member of a criminal gang, as defined in subdivision (a)(1), and who meets two (2) or more of the following criteria:
 - A) Admits to criminal gang involvement;
 - B) Is identified as a criminal gang member by a parent or guardian;
 - C) Is identified as a criminal gang member by a documented reliable informant;

- D) Resides in or frequents a particular criminal gang's area, adopts their style or dress, their use of hand signs or their tattoos, and associates with known criminal gang members;
 - E) Is identified as a criminal gang member by an informant of previously untested reliability and such identification is corroborated by independent information;
 - F) Has been arrested more than once in the company of identified criminal gang members for offenses which are consistent with usual criminal gang activity; or
 - G) Is identified as a criminal gang member by physical evidence such as photographs or other documentation;
- 3) "Criminal gang offense" means any violation of Tennessee law:
- A) During the perpetration of which the defendant knowingly causes, or threatens to cause, death or bodily injury to another person or persons and specifically includes rape of a child, aggravated rape and rape; or
 - B) That results, or was intended to result, in the defendant receiving income, benefit, property, money or anything of value from the illegal sale, delivery or manufacture of a controlled substance or firearm; and
- 4)
- A) "Pattern of criminal gang activity" means prior convictions for the commission or attempted commission of, or solicitation or conspiracy to commit:
 - (i) Two (2) or more criminal gang offenses that are classified as felonies; or
 - (ii) Three (3) or more criminal gang offenses that are classified as misdemeanors; or
 - (iii) One (1) or more criminal gang offense that is classified as a felony and two (2) or more criminal gang offenses that are classified as misdemeanors; and
 - (iv) The criminal gang offenses are committed on separate occasions; and
 - (v) The criminal gang offenses are committed within a five-year period.
 - B)
 - (i) As used in this subsection (a), "prior conviction" means a criminal gang offense for which a criminal gang member was convicted prior to the commission of the instant criminal gang offense by the defendant and includes convictions occurring prior to July 1, 1997.
 - (ii) "Prior conviction" includes convictions under the laws of any other state, government, or country which, if committed in this state, would have constituted a criminal gang offense. In the event that a conviction from a jurisdiction other than Tennessee is not specifically named the same as a criminal gang offense, the elements of the offense in the other jurisdiction shall be used by the Tennessee court to determine if such offense is a criminal gang offense.
 - (iii) Convictions for multiple criminal gang offenses committed as part of a single course of conduct within twenty-four (24) hours are not committed on "separate occasions." However, acts which constitute criminal gang

offenses under subdivision (a)(3)(A) shall not be construed to be a single course of conduct.

- b) A criminal gang offense committed by a defendant who was a criminal gang member at the time of such offense shall be punished one (1) classification higher than the classification established by the specific statute creating the offense committed.
- c) (c) A criminal gang offense committed by a defendant who was not a criminal gang member at the time of such offense but who committed such offense for the purpose of and with the intent to fulfill an initiation or other requirement for joining a criminal gang as defined in subdivision (a)(1) shall be punished one (1) classification higher than the classification established by the specific statute creating the offense committed.
- d) (d) If the criminal gang offense subject to enhancement under subsection (b) or (c) is a Class A felony, the presumptive sentence for such offense shall be the maximum sentence within the range from which the defendant is to be sentenced.
- e) (e) A criminal gang offense committed by a defendant who was a criminal gang member at the time of such offense shall be punished two (2) classifications higher than the classification established by the specific statute creating the offense committed if the criminal gang member was also a leader or organizer of the criminal gang at the time the offense was committed.
- f) (f) If the criminal gang offense subject to enhancement under subsection (e) is a Class A or B felony, the criminal gang member shall be sentenced as a Class A felon and the presumptive sentence for such offense shall be the maximum sentence within the range from which the defendant is to be sentenced.
- g) (g) If the defendant is charged with a criminal gang offense and the district attorney general intends to seek enhancement of the punishment under subsection (b), (c) or (e), the indictment, in a separate count, shall specify, charge and give notice of the subsection under which enhancement is alleged applicable and of the required prior convictions constituting such gang's pattern of criminal gang activity.
- h) (h) If the defendant is convicted of the underlying criminal gang offense, the jury shall then separately consider whether the defendant was at the time of the offense:
 - 1) A criminal gang member;
 - 2) A criminal gang member and a leader or organizer of the gang; or
 - 3) Not a criminal gang member but committed the offense for the purpose of joining a criminal gang. If the jury convicts the defendant under subdivision (h)(1), (2) or (3), the court shall pronounce judgment and sentence the defendant as provided in this section.

APPENDIX FOUR

Definitions

Prison: A state or federal correctional institution for incarceration of felony offenders for terms of one year or more. The terms “prison” and “penitentiary” are used interchangeably to designate imprisonment of persons convicted of the more serious crimes, as distinguished from county or city jails.

Jail: A place of confinement that is more than a police lockup and less than a prison. Jails usually are used to hold either persons convicted of misdemeanors or persons awaiting trial or as lockup for intoxicated and disorderly persons.

Misdemeanor: A crime carrying a sentence of less than one year of jail time that does not involve a state prison. Sentencing minimums are used to define the difference between felonies and misdemeanors because not all states distinguish misdemeanors and felonies in exactly the same way.

Felony: A serious crime, like murder, that is punishable by *at least* one year of imprisonment or death by execution.

Jurisdiction: (1) A court’s power to decide a case or issue a decree; (2) a geographic area within which political or judicial authority may be exercised; (3) a political or judicial subdivision in a geographic area within which political or judicial authority is exercised.

(See also Nolan, Joseph R. and Jaqueline M. Nolan-Haley, Black’s Law Dictionary, 6th ed. St. Paul: West, 1990.)

APPENDIX FIVE

Tennessee's Response to the Growing Problem of Animal Fighting

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COCK AND DOG FIGHTING IN TENNESSEE

What Is Cock Fighting?

Although cock fighting is illegal in 48 states, including Tennessee, cock fighting dates back several centuries and is common in many cultures.⁵ In the Caribbean, for example, cocks fight with their natural spurs, sharpened like needles and will fight for hours.⁶ In Thailand, India, and Pakistan, the cocks are fitted with “spur-shoes” that function as boxing gloves.⁷ In the United States, however, cocks often wear spurs made of steel.⁸ These steel instruments are called “gaffs.”⁹ Gaffs are sharp spikes that are fixed onto the stump of the cock’s back toe.¹⁰ They can vary in length and serve to rip the skin of the opponent.¹¹ Most fights using gaffs end in serious injuries or death.¹²

Steeped in such history and tradition, cock fighting is a difficult practice to eliminate.¹³ Like all illegal animal fighting, cockfights are held in secret.¹⁴ Two roosters fight inside a small ring, or pit, and are dosed with various drugs.¹⁵ These drugs, which include strychnine, caffeine, and amphetamines, increase the roosters’ endurance and aggression.¹⁶ Only birds that have been bred for fighting and are provoked will inflict the serious injuries found in cockfights.¹⁷ Unable to escape the walls of the pits, the cocks often fight to the death.¹⁸

⁵ DAVID FAVRE, *ANIMALS: WELFARE, INTERESTS, AND RIGHTS* 278-9 (2003). Cock fighting is especially common in the Filipino and Latin American cultures. *Id.* at 278.

⁶ *Cockfighting: Passion and Vice*, at <http://home.arcor.de/be/bethge/hahnenkengl.htm>.

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ FAVRE, *supra* note 1 at 278-9.

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Cockfighting: A Blood Sport for Roosters*, at www.iduasa.org/campaigns/sport/cock/cockfighting.html [hereinafter *Cockfighting*].

¹⁶ FAVRE, *supra* note 1 at 278-9.

¹⁷ *Id.*

¹⁸ *Id.*

How Common Is Cock Fighting?

Cock fighting still thrives in Tennessee and throughout the United States.¹⁹ For example, more than three dozen roosters were recently confiscated by Metro Animal Services officers in Nashville, Tennessee.²⁰ Exact statistics on cockfighting are not available, but Richard Breitmeyer, California's director of animal health and food safety services, estimates that 50,000 individuals raise nearly three million gamecocks annually.²¹ The *Arkansas Democrat-Gazette* reports that breeding gamecocks for fighting purposes is an \$18 million-a-year industry in the state, making it the tenth-largest gamecock producer in the world.²² Likewise, the Hawaii Game Breeders Association states that its members spend more than \$9 million dollars a year on feed, cages, incidentals, and shipping charges to raise and export thousands of gamecocks to the mainland United States and other places cockfights are common.²³

What Are the Signs of Cock Fighting?

Fighting roosters, commonly called gamecocks, will frequently be missing their combs and wattles.²⁴ Cutting off a rooster's comb is a common practice in cock fighting because it gives the other birds less to grab onto during the fight.²⁵ The roosters' talons are sharpened, and they are injected with stimulants called "rooster boosters."²⁶ Syringes, metal spikes, a circular pit, many roosters in small cages, and rooster carcasses all are indicative of cock fighting.²⁷

What Is Dog Fighting?

Dogfights usually take place in backyards or basements and are related to drugs, illegal gambling, or gang activity.²⁸ Dogs fight in a ring, often to the death, while their owners and spectators place bets on the outcome of the fight.²⁹ Dog fighters may beat, burn, and torture their dogs, especially those that do not win.³⁰ Additionally, like

¹⁹ *Id.* at 278.

²⁰ *Metro Animal Services Confiscates Dozens of Roosters* (WKRN television broadcast transcript, Feb. 18, 2003), available at <http://wkrn.com/Global/story.asp?s=1138013>.

²¹ The Humane Society of the United States, *New Federal Law Will Help Crack Down on Illegal Cockfighting*, available at <http://www.hsus.org/ace/19057>.

²² *Id.*

²³ *Id.*

²⁴ *Id.*; See also FAVRE, *supra* note 1 at 280.

²⁵ *Id.*

²⁶ *Id.*

²⁷ *Id.*

²⁸ The Humane Society of the United States, *Going to the Dogs*, at www.hsus.org/ace/21320 [hereinafter HSUS]; see also The Humane Society of Toledo, *Why Should You Care?* at www.doglicense.com/counties/specialfiles/dogfight.html [hereinafter Toledo].

²⁹ FAVRE, *supra* note 1 at 278-9.

³⁰ Shane DuBow, *Dog Bites Dog*, N.Y. TIMES, Sept. 29, 2002, § 6 (Magazine), at 67.

gamecocks, fighting dogs are injected with drugs to increase their pain tolerance and endurance during the fights.³¹

How Common Is Dog Fighting?

Dog fighting may not be less common than cock fighting. The Humane Society of the United States estimates that 40,000 people in the United States own or breed pit bulls for organized, underground fighting.³² This number represents an increase of 300 percent over the past 10 years.³³ Worldwide proceeds from stud fees, puppy sales, and fight bets total hundreds of millions of dollars.³⁴

Dog fighting is equally popular in Tennessee. For example, in Grand Junction, Tennessee, officers respond to dog-fighting complaints two to three times per year.³⁵ In July of 2004, a Grand Junction, Tennessee man was charged with having 42 pit bulls on his property for the purpose of dog fighting.³⁶ As is typical with dog fighters, the police believe the man to be a major drug kingpin in the area.³⁷

What are the Signs of Dog Fighting?

A recent Tennessee court case identifies the paraphernalia associated with the sport of dog fighting: boxed-in conveyor belts used as treadmills for building physical endurance, a carousel surrounded by a dirt groove that the dogs are forced to run in, fighting rings covered in blood, and syringes.³⁸ Also watch for scarring on the dogs, crooked limbs resulting from healed injuries. Other signs of dog fighting include the placement of up to 20 pounds of chain around the dogs' necks to strengthen them, "training sticks" used to beat and separate fighting dogs, and tires hanging in trees.³⁹

How Do Cock and Dog Fighting Affect Communities?

In addition to the inhumane treatment of the animals involved, both cock and dog fighting often are associated with other crimes. In *Johnson v. State*, for example, the Tennessee Supreme Court found that cock fighting was associated with betting, gambling, and poor morals.⁴⁰ The court states that cockfighting "leads to idleness,

³¹ Kathy Lynn Gray, *Blood Sport: A Dramatic Rise in Illegal Dogfighting Overwhelms Authorities and Strikes Fear in Some Neighborhoods*, COLUMBUS DISPATCH, May 5, 2002, at 1A, at <http://snips.8m.com/pages/dog%20fighting.htm>.

³² HSUS, *supra* note 15.

³³ Gray, *supra* note 13.

³⁴ DuBow, *supra* note 14 at 68.

³⁵ *Dog Fighting: 42 Dogs Found*, THE JACKSON SUN, July 9, 2004, available at <http://www.pet-abuse.com/cases/2569/TN/US/1>.

³⁶ *Id.*

³⁷ *Id.*

³⁸ *State v. Scott*, No. W1999-01309-CCA-R3-CD, LEXIS 561, *3 (Tenn. Crim. App. 2001).

³⁹ *Id.*

⁴⁰ 36 Tenn. 614, 622 (1857).

dissipation, bankruptcy, and wretchedness.”⁴¹ More recently, the court in *State v. Scott* found the defendant guilty of fighting his pit bulls and uncovered evidence of illegal gambling.⁴² Other crimes associated with animal fighting include drugs and gang activity.⁴³ Dog fighting also can lead to maulings and fatalities inflicted by fighting dogs, especially pit bulls.⁴⁴ Animal fighting also is associated with drugs and gang activity.⁴⁵ Some dog fighters even steal family pets, such as small dogs, cats, and rabbits to bait and train their fighting dogs.⁴⁶

WHAT ARE TENNESSEE COURTS AND LAWMAKERS DOING ABOUT COCK AND DOG FIGHTING?

Is There a Law against Cock and Dog Fighting?

Both cock and dog fighting are illegal in Tennessee. Tennessee law states, “[i]t is unlawful for any person to: [o]wn, possess, keep, use, or train any bear, bull, dog, cock, or other animal, for the purpose of fighting, baiting or injuring such animal for amusement, sport, or gain....”⁴⁷ Despite this law and the prevalence of cock and dog fighting in Tennessee, the rate of arrest and prosecution for animal fighting remains low.

Why Isn’t the Law Working?

Few cases exist that sentence an offender under the above animal fighting statute. This may be true for several reasons.

- For example, law enforcement officials may ask: why worry about enforcing animal fighting laws when local law enforcement departments have too little funding and manpower to adequately enforce the crimes humans commit against each other?
- Also, law enforcement officials and prosecuting attorneys may wonder: why arrest and prosecute people for a crime like animal fighting when a defendant will do little or no time for the offense and will be back out on the street to cause more problems? Why not arrest and sentence an offender for something else, like drugs, that carries a stiffer penalty?

Police and sheriff’s departments struggle to have enough manpower and money to deal with the human victims of crimes, much less the animal ones. Unlike many states, where humane society and ASPCA officers help compensate for the local law

⁴¹ *Id.* at 621.

⁴² No. W1999-01309-CCA-R3-CD, LEXIS 561, *17.

⁴³ HSUS, *supra* note 13.

⁴⁴ Lynn Marmer, *The New Breed of Municipal Dog Control Laws: Are They Constitutional?* 53 U. CIN L. REV. 1067 (1984).

⁴⁵ HSUS, *supra* note 15.

⁴⁶ HSUS, *supra* note 24; *see also* Toledo, *supra* note 13.

⁴⁷ TENN. CODE ANN. § 39-14-203(a)(1).

enforcement's budgetary crisis, local law enforcement lacks the support of humane organizations. This is because Tennessee humane officers do not have the authority to arrest perpetrators of animal cruelty, including cock and dog fighters. States such as California and Ohio, in contrast, allow their humane officers to make arrests, charge fines, and bring offenders before a magistrate.⁴⁸ Tennessee law, however, only allows its officers to “*interfere* to prevent the perpetration of any act of cruelty upon any animal in such person's presence.”⁴⁹ Additionally, Tennessee law requires a humane officer to be present at a fighting event before she or he may intervene, a dangerous proposition for someone without police training.⁵⁰ Thus, although Tennessee relies on anti-cruelty organizations, at least in part, to help enforce its anti-fighting laws, Tennessee grants these humane officers no power to arrest offenders.⁵¹

Moreover, it may not seem worthwhile, from the perspective of a law enforcement officer or prosecutor, to arrest or prosecute an offender for animal fighting given the limited amount of jail time, if any, offenders may serve for cock or dog fighting. Low fines also fail to serve as an incentive to arrest or prosecute offenders. Set forth below are some details regarding the available penalties for cock and dog fighting offenders.

Cock Fighting:

Interestingly, cock fighting carries a lower sentence than dog fighting. As a Class A Misdemeanor, cock fighting carries a maximum fine of \$2,500 and no mandatory jail time.⁵² The Tennessee courts have offered little reason to explain why the crime of cock fighting is not punished more stringently, except to state that “gamecocks were held not to be ‘animals’ within the purview of statutes prohibiting cruelty to animals.”⁵³ Indeed, the very name of the anti-fighting statute, the “Cock and Animal Fighting Statute,” clearly separates the gamecock from other animals in the lawmakers' minds.⁵⁴ Tennessee's differing interpretation of its definition of “animal” inhibits its ability to protect gamecocks from fighting and cruelty. Cock fighting still is treated as a misdemeanor offense with no mandatory jail time. As a result, police and prosecutors no doubt wish to arrest and charge cock fighters for and with other crimes that carry longer sentences than cockfighting does under the animal fighting statute. This fact may help to explain why no one has been tried for cock fighting in Tennessee since 1984.

A charge for animal fighting cannot be combined with an existing charge to lengthen an offender's sentence. An offender who is found guilty of a drug or gang

⁴⁸ CAL. CORP. CODE § 14502(j); ORC ANN. § 1717.04.

⁴⁹ TENN. CODE ANN. § 39-14-210(b) (emphasis added).

⁵⁰ *Id.*

⁵¹ *Id.*

⁵² § 39-14-203(c)(2).

⁵³ *State v. Tabor*, 678 S.W.2d 45, 47 (Tenn. 1984).

⁵⁴ TENN. CODE ANN. § 39-14-203.

offense, for example, will likely serve his sentence for animal fighting concurrently with that of his other crime, adding no time to his stay in jail.⁵⁵

Dog Fighting:

According to the anti-fighting statute, anyone found guilty of dog fighting will be punished as a Class E felon and will serve a minimum sentence of one year in jail and be subject to a fine not to exceed \$3,000.⁵⁶ The minimum sentence of one year for dog fighting is small compared to the penalties associated with other crimes. Long known as a means to deal drugs, raise one's status in a gang, and win money through illegal gambling, dog fighting carries a minimum sentence lower than that of drug dealing and gang-related violence.⁵⁷ Thus, a prosecutor may choose to charge an offender with a crime related to animal fighting rather than animal fighting itself in order to get the criminal off the streets.

Moreover, the maximum fine for dog fighting seems low in light of the considerable proceeds dog fighters win by betting on their animals.⁵⁸ Why stop dog fighting in fear of losing \$3,000 when you can win (or lose) a quarter of a million dollars on one fight?⁵⁹ It is worth noting, however, that because an offender is sentenced as a Class E felon, a conviction adds a felony to his criminal record with the state. The more felonies a criminal has on his record, the harsher the sentencing will be for any future offenses he commits.⁶⁰

Why Are the Sentences and Fines Set Where They Are?

The answer may lie in the history of the prosecution of animal fighting in Tennessee. As the timeline below demonstrates, not only are there few cases that try offenders for animal fighting, but the sentences punishing animal fighting are short to nonexistent.

- **1840:** The case of *Bagely v. State* first criminalized animal fighting by looking to English statutes punishing gaming.⁶¹ In *Bagely*, the Tennessee Supreme Court found that “cock-fighting is gaming under our statutes.”⁶² The court decided that, because illegal wagering takes place at cockfights, those who run the fights

⁵⁵ State v. Scott, No. W1999-01309-CCA-R3-CD, LEXIS 561, *1, *6 (Tenn. Crim. App. 2001) (finding defendant guilty of animal fighting and animal cruelty and sentencing him to 2 one-year terms in jail to be served concurrently). Concurrent sentences are those served at the same time, while consecutive sentences are served back to back.

⁵⁶ TENN. CODE ANN. § 39-14-203(c)(1).

⁵⁷ *Id.* at § 39-6-417(a)(1)(A) (making the manufacture, delivery, sale, or possession with intent to do same of a drug a Class B Felony with a minimum sentence of eight years in jail); § 40-35-121 (making a repeat offender subject to enhanced punishment for gang-related crimes).

⁵⁸ DuBow, *supra* note 14.

⁵⁹ *Id.*

⁶⁰ TENN. CODE ANN. § 40-35-114(2).

⁶¹ 20 Tenn. 486 (1840).

⁶² *Id.* at 490.

should be punished under the Tennessee gaming statutes.⁶³ Violation of these statutes carried the sentence of a misdemeanor.⁶⁴ Interestingly, the court did not consider the welfare of the cocks in its decision.

- **1857:** In *Johnson v. State*, the Tennessee Supreme Court extended the holding in *Bagely* to encompass those who bet upon and pay to watch cock fights.⁶⁵ The court stated, “[h]ow could any one more effectually promote and encourage a game or match of this kind by not only giving it countenance by his presence, but actually paying his money to support and sustain it?”⁶⁶ The court added that cock fighting leads young men to ruin and disgrace by deteriorating their moral character.⁶⁷ Again, cock fighting was held to be a misdemeanor offense, despite its association with betting, gambling, and poor morals.
- **1923:** Tennessee courts recognized that animal abuse in and of itself is a crime, albeit a relatively unimportant one. The court held that “it is common to provide broadly that any person who shall inhumanly, unnecessarily, or cruelly beat or injure or otherwise abuse, any dumb animal, shall be guilty of a misdemeanor....”⁶⁸ The court did not, however, connect animal cruelty to animal fighting.
- **1984:** The court in *State v. Tabor* found defendants guilty of paying to enter an illegal cockfight.⁶⁹ The defendants argued that the statute punishing spectators of a cockfight was an abuse of the state’s powers, and that only those who ran the fights should be prosecuted.⁷⁰ The court held that the Tennessee law that prevented people from “assembling deliberately and knowingly, to watch animals being exhibited, baited, or fought for the purpose of injuring other animals for amusement, sport, or gain” was valid.⁷¹ Under this law, watching a cockfight was a misdemeanor offense.⁷²
- **1991:** In *Davis v. State*, the courts examined dog fighting for the first time under the pre-1997 animal fighting statute.⁷³ In this case, the two defendants faced charges of possessing pit bulls for the purpose of fighting, causing pit bulls to fight, and permitting pit bulls to fight on their property.⁷⁴ One defendant was

⁶³ *Id.*

⁶⁴ *Id.*

⁶⁵ 36 Tenn. at 614.

⁶⁶ *Id.* at 621.

⁶⁷ *Id.* at 621, 622.

⁶⁸ *Jonesboro v. Kincheloe*, 247 S.W. 418 (1923).

⁶⁹ 678 S.W.2d 45 (Tenn. 1984).

⁷⁰ *Id.* at 46.

⁷¹ *Id.* at 47.

⁷² *Id.*

⁷³ See former TENN. CODE ANN. § 39-3-105(a)(1) and (2) (repealed in 1997 for the current statute, which increases the fine for dog fighting by \$1,000).

⁷⁴ No. 30, LEXIS 559, *1 (Tenn. Crim. App. 1991).

sentenced to three concurrent two-year prison terms, and the second defendant was sentenced to serve two consecutive terms of one year each.⁷⁵

- **2001:** In *State v. Scott*, Daniel Scott was charged with animal fighting and cruelty to animals, as well as keeping unvaccinated dogs.⁷⁶ Mr. Scott kept his dogs in standing water, failed to provide them with food, and threw the carcasses of his dead fighting dogs over the hill near the other dogs' pens to decay.⁷⁷ Mr. Scott also kept a fighting ring with blood on it, a treadmill, and a training carousel.⁷⁸ Mr. Scott was sentenced under the current anti-fighting statute, passed in 1997.⁷⁹ Mr. Scott made a plea agreement with the District Attorney and spent only one year in prison for animal fighting.⁸⁰

What Is the Next Step?

Tennessee could benefit from a tougher animal fighting statute, as well as a consistent, enhanced law enforcement scheme for detecting and preventing animal fighting. First, the sentencing and fines under the animal fighting statute could be made the equivalent of those for other crimes associated with animal fighting, such as drug dealing, illegal gambling, and gang violence. This may encourage law enforcement officials and prosecutors to use the animal fighting statute to help keep animal fighting offenders off the streets. With stricter animal fighting laws, a drug or gang offender could have years added to an already hefty jail sentence. Dog and cock fighters might fear the loss of their winnings if the fines were larger, making animal fighting unprofitable. Higher fines also could improve animal aid societies' ability to protect animals because, in Tennessee, fines from animal cruelty and fighting cases are given to animal aid organizations.⁸¹ With more funds, humane organizations may be able to help more animals.

Second, cock and dog fighting should not be punished differently. Consistency in the statute's sentencing scheme could make prosecution of cock fighting offenders more attractive, encouraging them to use the animal fighting statute more frequently.

Finally, Tennessee's laws could be altered to provide for law enforcement training for humane society personnel and allow these better-trained humane officers to have the power to arrest offenders. Other states, including California, require their humane officers

⁷⁵ *Id.* at *2 (where the court examined other, exacerbating factors to impose a harsher sentence, such as the defendant's past crimes and the extremely poor condition of the animals involved.) Some of the factors considered in this case may no longer be considered in sentencing based on a recent U.S. Supreme Court decision. *See* *Blakely v. Washington*, 124 S.Ct. 2531 (2004); *see also* Tennessee Attorney General Opinion No. 04-131 (August 13, 2004).

⁷⁶ *State v. Scott*, No. W1999-01309-CCA-R3-CD, LEXIS 561 at *1.

⁷⁷ *Id.* at *3.

⁷⁸ *Id.*

⁷⁹ *Id.* at *6.

⁸⁰ *Id.*; *see also* TENN. CODE ANN. §§ 39-14-203(c)(1), 39-14-202(f)(1).

⁸¹ TENN. CODE ANN. § 39-14-210(d).

to pass stringent requirements before they can be appointed and permit these officers to make arrests.⁸² Better-trained, more empowered humane officers could help to compensate for local law enforcement's current budgetary and manpower crises. These new officers would be better equipped to step into the often dangerous situations animal fighting entails and, in doing so, could help convict the drug dealers, gamblers, and gang members often found at or associated with animal fights.

⁸² CAL. CORP. CODE § 14502(B), (C).

APPENDIX SIX

Federal Animal Protection Statutes

Airborne Hunting Act 16 U.S.C. §742j-1 (2004)

The Airborne Hunting Act criminalizes shooting any bird, fish, or other animal while in an aircraft, using an aircraft to harass any bird, fish, or other animal, or knowingly participating in these activities. People employed or authorized by either the state or federal government to administer or protect “land, water, wildlife, domesticated animals, human life, or crops” are exempted from this statute.

Animal Damage Control Act 7 U.S.C. §§426, -(c) (2004)

This statute authorizes the Secretary of Agriculture: to conduct a wildlife services program respecting injurious animal species and take any action necessary to conduct the program; and to conduct activities (except urban rodent control) and enter into agreements for the control of nuisance mammals and birds and species that have zoonotic diseases.

Animal Enterprise Terrorism 18 U.S.C. §43 (2004)

This statute criminalizes using or conspiring to use travel in interstate or foreign commerce or the mail to cause physical disruption to animal enterprise functioning and the intentional damage or loss of property (including animals or records) used by an animal enterprise.

Animal Welfare Act 7 U.S.C. §§2131-2159 (2004)

This act: requires dealers and exhibitors that transport, buy, sell, or offer to buy or sell any animal to obtain a license, and to make and retain records relating to purchase, sale, transportation, identification, and previous ownership of live cats and dogs; bars dealers and exhibitors from selling or disposing any dog or cat within five business days of obtaining the animal; prohibits research facilities and the federal government from purchasing any dog or cat from anyone but a licensed dealer or exhibitor; and requires all animals subject to transportation to be marked or identified.

This act also authorizes the Secretary of Agriculture: to make any rule necessary to carry out the act; to make necessary, annual, or follow-up investigations or inspections to determine whether any “dealer, exhibitor, intermediate handler, carrier, research facility, or operator of an action sale” has violated the act and corrected any discovered deficiencies; to promulgate rules, regulations, or standards outlining reasons and manners necessary to allow inspectors to confiscate or humanly destroy a suffering animal. Moreover, the act creates a felony for any person to forcibly assault, resist, oppose, impede, intimidate, or interfere with any person conducting duties according to the act.

Finally, the act criminalizes knowingly sponsoring or exhibiting an animal fight if that animal was moved in interstate or foreign commerce and knowingly selling,

buying, transporting, delivering, or receiving animals in interstate or foreign commerce for animal fighting.

Bald and Golden Eagle Protection Act 16 U.S.C. §§668-668d (2004)

This act creates both criminal and civil punishment for knowingly, or with wanton disregard for consequences taking, possessing, selling, purchasing, bartering, offering to sell, purchase or barter, transporting, exporting or importing any American or golden eagle, alive or dead or any part of the nest or an egg. Further, this act abrogates Indians' rights to take bald and golden eagles for religious purposes.

Depictions of Animal Cruelty 18 U.S.C. §48 (2004)

This statute criminalizes (felony) knowingly creating, selling, or possessing a depiction of animal cruelty (maiming, mutilating, torturing, wounding, or killing an animal if illegal under state or federal law) and intending to use the depiction for commercial gain in interstate or foreign commerce. However, depictions with "serious religious, political, scientific, educational, journalistic, historical, or artistic value" are exempt.

Dog and Cat Protection Act of 2000 19 U.S.C. §1308 (2004)

This statute creates criminal penalties and civil liabilities for importing and exporting any dog or cat fur product or introducing any dog or cat fur product into interstate commerce.

Endangered Species Act 16 U.S.C. §§1531-44 (2004)

This Act allows the Secretary of the Interior, and in some cases the Secretary of Commerce, to promulgate regulations on endangered or threatened endangered species. The Secretary of Agriculture, in cooperation with the National Forest System, establishes and implements conservation programs under the act. Further, the act allows the Secretary of the Interior to cooperate with the several states for conservation of endangered and threatened species.

Fair Housing Act 42 U.S.C. §3604 (2004)

This statute requires that all public and private housing (with exceptions) allow Seeing Eye dogs, even if the housing otherwise has a "no pets" policy.

Federal Law Enforcement Animal Protection Act of 2000 18 U.S.C. §1368 (2004)

This statute criminalizes willful and malicious harm to any police animal or conspiring to do the same.

Fish and Wildlife Conservation Act 16 U.S.C. §§2901-12 (2004)

This act requires states to create detailed conservation plans for "nongame fish and wildlife" that must be approved by the Secretary of the Interior.

Fish and Wildlife Coordination Act 16 U.S.C. §§661-667 (2004)

This act authorizes the Secretary of the Interior to: assist and cooperate with federal, state, public, and private agencies and organizations in developing, protecting, rearing, and stocking all species of wildlife and their habitats and in controlling losses from disease or other causes, minimizing damages from overabundant species.

Horse Protection Act 15 U.S.C. §§1821-31 (2004)

This statute makes it a crime to ship, transport, move, deliver, receive, sell, auction, show, exhibit, or transport a horse onto which a blistering, irritating, chemical, or other agent has been applied either internally or externally or which has been burned, cut, or lacerated, or into which a person has injected a tack, screw, or nail. The Secretary of Agriculture is authorized to enforce the Act. Common or contract carriers are exempt from this act unless they have reason to believe the horse is sore.

Humane Slaughter Act 7 U.S.C. §§1901-1906 (2004)

This Act requires slaughter houses to employ humane techniques when slaughtering animals including cattle, calves, horses, mules, sheep, swine, and other livestock. Religious slaughter and handling or preparation of livestock for ritual slaughter is exempted from this act.

Lacey Act 18 U.S.C. §§41-48 (2004)

This statute criminalizes: willfully disturbing or killing any bird, fish, or wild animal of any kind whatever or destroying eggs or nests of any bird or fish on any land set aside as a sanctuary, refuge, or breeding ground or destroying any property of the United States; importing certain species of animals, birds, fish, amphibians, reptiles, or their offspring that the Secretary of the Interior has declared injurious to humans or agriculture, horticulture, forestry, or wildlife; using interstate or foreign mail or any facility engaged in interstate or foreign commerce to cause physical disruption to the functioning of an animal enterprise and intentionally damaging or causing loss of any property used by an animal enterprise or conspiring to do so; knowingly transporting, delivering, selling or purchasing water hyacinths; using an aircraft or a motor vehicle to hunt, capture, or kill any wild unbranded horse or burro running at large on public land or polluting; and causing the pollution of any watering hole on public land for purposes of trapping, killing, wounding, or maiming animals; or knowingly creating, selling, or possessing a depiction of animal cruelty for interstate or foreign commerce for commercial gain except for depictions having serious religious, political, scientific, educational, journalistic, historical, or artistic value.

National Agricultural Research, Extension, and Teaching Policy Act of 1977 7 U.S.C. §§3191-3201 (2004)

This act promotes the general welfare through “the improved health and productivity of domestic livestock, poultry, aquatic animals,” and other animals essential to the food supply; improves horse health; facilitates effective treatment of animal and poultry diseases; improves ways to control organisms and residue in human food of animal origin; improves housing and management for well being of livestock; minimizes losses of livestock and poultry because of transportation; controls animal

diseases to protect humans; improves animal birth control; and improves animal health and the general welfare of animals.

Sikes Act

16 U.S.C. §§670a-670o (2004)

This act authorizes the Secretary of Defense, in cooperation with the Secretary of the Interior, Director of the United States Fish and Wildlife Service, and the head of each State Fish and Wildlife Agency, to carry out a natural resources conservation and rehabilitation program on military installations.

Tariff Act of 1930

19 U.S.C. §1527 (2004)

This section of the Tariff Act of 1930 prohibits importing into the United States any wild mammal or bird, alive or dead, or any part or product of any wild mammal or bird, if the laws or regulations of the wild mammal or bird's country of origin restrict its "taking, killing, possession, or exportation to the United States," unless accompanied by a certification from the United States Consul that the mammal or bird "has not been acquired or exported in violation of the laws or regulations of such country.

Anything imported in violation of this statute is subject to seizure and forfeiture under customs laws. This statute excludes importation prohibited by any other law, items imported for science or education, and importation of certain migratory game birds brought into the country by sportspeople returning from hunting trips.

Twenty-Eight Hour Law

49 U.S.C. §80502 (2004)

This law prohibits the confinement of animals in any type of carrier on a vehicle or vessel for more than 28 consecutive hours without unloading for food, water, and rest (loading and unloading is not considered confinement) for at least five consecutive hours. Sheep can be confined for 36 hours without being unloaded. Animals may be confined for more 28 hours when unloading must be postponed for accidental or unavoidable causes and when the person having custody of the animals requests the extended time in writing. This law exempts the transportation of animals that have food, water, space, and rest.

Wild Bird Conservation Act of 1992

16 U.S.C. §§4901-4916 (2004)

The Act promotes conserving exotic birds by assisting wild bird conservation and management programs in the countries of origin and the United States and by limiting the importation of wild birds.

APPENDIX SEVEN

Selected Key Resources

1. **American Humane Association**, National Headquarters; 63 Inverness Drive East, Englewood, CO 80112; (303) 792-9900 (telephone); (303) 792-5333 (facsimile); <http://www.americanhumane.org>.
2. **The American Society for the Prevention of Cruelty to Animals**; 424 E. 92nd St., New York, NY 10128-6804; (212) 876-7700 (telephone); <http://www.asPCA.org>.
3. **The American Veterinary Medical Association**; 1931 N. Meacham Rd., Suite 100, Schaumburg, IL 60173-4360; (847) 925-8070 (telephone); <http://www.avma.org>.
4. **The Humane Society of the United States**; 2100 L St., NW, Washington, DC 20037; 202-452-1100 (telephone); <http://www.hsus.org>.
5. **National Animal Control Association**; P.O. Box 480851, Kansas City, MO (mailing address); 132 S. Cherry Street, Olathe, KS, 66061 (physical address); 641481; 913-768-1319 (telephone); 913-768-1378 (facsimile); <http://www.nacanet.org>

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⁸³ This Topical Heading Index is offered to assist the reader in a more efficient use of the manual. The categories and descriptions set forth in this Topical Heading Index may not correspond exactly to the statutory title, chapter, and section headings provided in the referenced Tennessee Code Annotated provisions.

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Donation Form

Nine Counties. One Vision. dissolved December 31, 2004, and the active members and activities of the Animal Welfare Task Force were moved to the University of Tennessee College of Veterinary Medicine under the name "C.A.I.T" (Companion Animal Initiative of Tennessee). This new working group will complement existing activities of the College such as H.A.B.I.T. (Human Animal Bond in Tennessee), and Veterinary Social Work Services.

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