

TENNESSEE

TITLE 4. STATE GOVERNMENT

CHAPTER 36. HORSE RACING

PART 1 GENERAL PROVISIONS

4-36-101. Short title.

This chapter shall be known and may be cited as the "Racing Control Act of 1987."

[Acts 1987, ch. 311, § 1.]

4-36-102. Legislative intent.

It is the intention and policy of the general assembly to encourage legitimate occupations, and legitimate sporting events with pari-mutuel wagering in this state in a manner consistent with the health, safety and welfare of the people. To further this policy, the intent of this chapter is to vest the Tennessee racing commission with plenary power to control and regulate racing in Tennessee, with full recognition of the statement that racing is a privilege and is not a right. In keeping with this policy, the racing commission shall maintain racing events with the appearance and the fact of complete honesty and the highest integrity.

[Acts 1987, ch. 311, § 2.]

4-36-103. Definitions.

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

(1) "Association" means, as the context requires, any person applying to the Tennessee state racing commission for a license to conduct a race meeting or any person licensed by the commission to engage in the conduct of a race meeting;

- (2) "Breakage" means the odd cents by which the amount payable on each dollar wagered exceeds a multiple of ten cents (10¢);
- (3) "Commission" means the Tennessee state racing commission created by § 4-36-201;
- (4) "Dark day" means a day on which the association does not conduct live racing on its track surface;
- (5) "Enclosure" means the real property and appurtenances and improvements thereto which is contiguous or adjacent to the association's racing surface and is owned, leased or otherwise possessed by the association for purposes related to its conduct of pari-mutuel wagering;
- (6) "Fair" means a county, district or division fair as defined in § [43-21-104](#), which qualifies for state aid grants under § [43-21-102](#);
- (7) "Horse" means any type of horse, including, but not limited to, Appaloosa, Arabian, Standardbred, Quarter Horse or Thoroughbred;
- (8) "Host facility" means the racetrack at which the race is run or the facility which is designated as the host facility if the race is run in a jurisdiction which is not participating in the interstate combined wagering pool;
- (9) "Host jurisdiction" means the jurisdiction in which the host facility is located;
- (10) "Interstate combined wagering pool" means a pari-mutuel pool established in one (1) jurisdiction which is combined with comparable pari-mutuel pools from one (1) or more other jurisdictions for the purpose of establishing payoff prices in the various participating jurisdictions;
- (11) "Jurisdiction" means that governmental entity which regulates pari-mutuel wagering at the national, state, or local level in the United States, its territories or possessions, or in any other country;
- (12) "Live race" means a horse race which is actually run on an association's track;
- (13) "Municipality" means any incorporated municipality having a population greater than one hundred thousand (100,000) according to the 1980 federal census or any subsequent federal census;
- (14) "Person" means any individual, association, partnership, joint venture, corporation, governmental entity or instrumentality thereof, or any other organization or entity;
- (15) "Premises" means any real property and the appurtenances and improvements thereto which is owned, leased or otherwise possessed by the association for purposes related to its conduct of pari-mutuel wagering;
- (16) "Public employee" means any individual who receives compensation from the state or any political subdivision thereof or any public governmental authority or corporation established for the performance of public functions;
- (17) "Public official" means an elected or appointed person in the executive, legislative or judicial branch of the state or any political subdivision thereof;
- (18) "Race meeting" means the whole period of time, whether consecutive dates or otherwise, for which an association has been granted a license by the commission;
- (19) "Satellite teletheater" or "satellite simulcast teletheater" means a facility, operated by an association which has been granted a race meeting license, at a location separate from the enclosure for the purpose of displaying and accepting wagers on simulcast races. A satellite teletheater shall have amenities similar in quality to the association's grandstand and clubhouse facilities.
- (20) "Simulcast race" means, according to the context, either the broadcast from an association of a live race, simultaneously with its running, or the receipt by an association of a broadcast of a race conducted at a track in the United States, simultaneously with its running; and
- (21) "Take-out" means that portion of a wager which is deducted from or not included in the pari-mutuel pool, and which is distributed to persons other than those placing wagers;

[Acts 1987, ch. 311, § 3; 1993, ch. 248, § 1; 1996, ch. 1080, § 1.]

4-36-104. Costs in implementing and administering chapter.

- (a) It is the intention of this chapter that all costs incurred by the state in implementing and administering this chapter be paid out of the revenue received from the taxes imposed in this chapter.
- (b) The commissioner of finance and administration shall identify all costs incurred by the state to implement and administer this chapter.
- (c) All moneys to be received into the special agency account known as the "racing development fund" shall be used first to defray costs incurred by the state.

[Acts 1987, ch. 311, § 34.]

4-36-105. Racing development fund.

- (a) There is hereby established within the general fund a special agency account to be known as the "racing development fund," hereinafter referred to as the "fund." The fund shall be composed of breakage proceeds received by the state under § [4-36-306\(d\)](#), the uncashed ticket proceeds received by the state under § [4-36-306\(e\)](#), registration fees collected by the commission under § [4-36-304](#), and the fund allocation established in § [4-36-306\(a\)](#).
- (b) Any unencumbered funds and any unexpended balance of this fund remaining at the end of the fiscal year shall not revert to the general fund, but shall be carried forward until expended in accordance with the provisions of this chapter.
- (c) Interest accruing on investments and deposits of the fund shall be returned to the fund and remain a part of the fund.
- (d) The fund shall be managed on a revolving no-quarter basis.
- (e) An advisory committee composed of one (1) breeder, one (1) member of the commission, and one (1) member who shall be a representative of a licensed association shall be selected by the full commission for terms established by the commission, and shall offer recommendations to the commission concerning the administration of the fund for supplemental programs and purses.
- (f) After defraying the state costs in implementing and administering this chapter, as provided in § [4-36-104](#), the commission shall use the fund to promote, enhance, improve and encourage the development of the breeding industry in Tennessee by providing supplemental programs and purses for designated stakes, handicap, allowance and non-claiming maiden races at licensed race meetings in Tennessee. The awarding and payment of a supplemental purse shall be conditioned on the winning, placing or showing in such races by Tennessee bred horses. Any supplemental purse provided for a designated race shall be apportioned among the winning, placing and showing horses in the same proportion as the stake or purse is provided for the race by the association.
- (g) The commission shall control expenditures made from the fund. The commission shall consult with various breeders' associations in allocating the proceeds from the fund. The commission shall promulgate rules and regulations to effectuate the provisions of this subsection, and shall administer the program in a manner best designed to promote and aid the development of the horse breeding industry in Tennessee, to upgrade the quality of racing in Tennessee, and to improve the quality of horses bred in Tennessee.

[Acts 1987, ch. 311, § 28; 1990, ch. 684, § 11.]

**PART 2
TENNESSEE STATE RACING COMMISSION
[OBSOLETE]**

4-36-201 - 4-36-217. [Obsolete.]

**PART 3
RACE MEETINGS**

4-36-301. Plenary power and jurisdiction of commission.

The commission is vested with plenary power and jurisdiction over race meetings, and over all persons and things having to do with the operation of such meetings.

[Acts 1987, ch. 311, § 7.]

4-36-302. Powers and duties of commission - Time and place of race meetings - Applications.

The commission shall carry out the provisions of this chapter, including the following specific duties:

(1) (A) The commission shall decide when and where certain recognized forms of race meetings may be conducted in this state. The commission shall take the following factors into consideration in its determination:

(i) The public interest;

(ii) A professional analysis of the wagering markets within Tennessee and adjacent states;

(iii) The ability of the city or county in which the proposed track is located to provide public services to the facility and surrounding areas, including, but not limited to: fire protection, law enforcement, roadways, water and waste water facilities, zoning, subdivision and building regulations and other public services as

may be required by the track or the anticipated growth in the surrounding areas;

(iv) The proximity of the proposed track to any central business district and the effect of the track on other local tourist attractions;

(v) Community support for the proposed track and/or satellite teletheater location proposed by the applicant. To measure accurately this support, the commission shall hold at least one (1) public hearing in the area of the proposed track and/or satellite teletheater location to receive comments and testimony. Before conducting such public hearing, the commission shall publicize the meeting in a newspaper of general circulation in a notice of no less than five inches (5") in width and five inches (5") in length for three (3) consecutive weeks prior to the meeting, with the final notice under this subdivision (1)(A)(v) to be no less than four (4) days or greater than seven (7) days prior to the meeting. The applicant shall reimburse the commission for any cost incurred as a result of conducting such public hearing; and

(vi) Such other conditions as the commission believes to be pertinent to the licensing of an association to conduct a race meeting in conformity with the intent and policy of this chapter and the commission;

(B) The commission shall also consider, in determining whether to approve a proposed track location, reasons opposing or favoring the proposed location as may be presented to the commission by the governing body of any city or county;

(C) Except for associations which are fairs, the commission shall not grant more than one (1) license to conduct racing in each grand division, as defined in chapter 1, part 2 of this title;

(2) The commission shall require an application of each applicant desiring to operate a race meeting. An application to conduct a race meeting shall include, but not be limited to, the following:

(A) Ownership.

(i) Name of applicant and form of business organization;

(ii) The following information - if a parent corporation is involved, the same information should be given for both corporations:

(a) Year of organization;

(b) State where organized;

(c) Copy of bylaws;

(d) Classes of capital stock authorized;

(e) Amount of stock authorized;

(f) Amount of stock outstanding not less than fifteen (15) days prior to the filing of the application;

(g) Name and address of each person who owns, of record or beneficially, one (1) or more shares of any class of capital stock;

(h) Terms of voting trust in which any capital stock may be held, if any, and the name, address, class of stock and number of shares of stock held in voting trust;

(i) Terms of any proxy by which any capital stock is held, the holder of the proxy and name, address, class of stock, and number of shares of stock for all stock held by proxy;

(j) Whether five percent (5%) or more of applicant's assets or five percent (5%) or more of any principal stockholder's stock is encumbered by long-term debt. Names and addresses of persons holding security interests or promissory notes from the applicant and stockholders, where stock is pledged as security, and the terms of agreements creating the security interests;

(k) Dividend rights, voting rights, liquidation rights, preemptive rights, conversion rights, and redemption provisions;

(l) If applicant was organized as a corporation within the past five (5) years, the following information: names of promoters, nature and amount of anything of value received or to be received by each promoter directly or indirectly from the applicant; and nature and amount of any assets, services or other consideration received or to be received by the applicant;

(m)(I) Names of all directors and officers and all persons chosen to become directors or officers.

(2) All positions and offices with applicant held by each person named and principal occupation during past five (5) years of each person named; and

(n) All parents of the corporation, if applicable, showing basis of control, percentage of voting securities owned by the parent, percentage of voting securities owned, or other basis of control by the parent;

(iii) Financial information.

(a) Financial statements audited and certified by independent certified public accountants for each of the last three (3) fiscal years or for the period of organization if less than three (3) years; and

(b) Any loan (including the borrower's name, the amount of loan and the collateral, if any) held by the applicant which is greater than one percent (1%) of the applicant's net income;

- (iv) Any pending legal proceeding to which the applicant or subsidiary or parent is a party or to which any of its property is a party. This information, if applicable, shall include the name of the court or agency in which a proceeding is pending, the date instituted and the principal parties;
 - (v) Any ownership interest held by a director, officer, policy-making manager, or principal stockholder in any entity previously licensed by another racing commission;
 - (vi) The approximate amount of any material interest, direct or indirect, of any officer, director or principal stockholder of the applicant or any associate of any of the above, in any material transaction during the last three (3) years to which the applicant was, or is to be, a party;
 - (vii) Principal purposes for which the net income received by applicant is intended to be used and an approximate percentage of the amount intended for each purpose;
 - (viii) Any contract the applicant has entered into within one (1) year of the date of application and any executory contract in which consideration exceeds one percent (1%) of the applicant's net income; and
 - (ix) Direct remuneration paid by the applicant or a subsidiary, if any, during the most recently concluded fiscal year to:
 - (a) Each director of the applicant;
 - (b) Each officer of the applicant; and
 - (c) Any other person whose direct remuneration was more than ten thousand dollars (\$10,000).
- (B) Racing operations.
- (i) Location.

- (a) County and, if applicable, municipality wherein the track will be located;
 - (b) Actual legal description of site, names and addresses of all persons who are titleholders to real property and names and addresses of all persons holding mortgages or security interests in the property;
 - (c) Transportation facilities serving the area; number of miles from nearest population center;
 - (d) Climatic conditions during proposed racing season;
 - (e) Population of local areas and growth trends;
 - (f) Principal sources of local income where track would be located;
 - (g) The effect of competition with other tracks in and out of state and with other sports or recreational activities of the area and effect of competition on availability of racing stock and track personnel; and
 - (h) The total economic impact of the facility on the community and the facility's relationship with other tourist attractions.
- (ii) Physical plant.
- (a) Exact dimensions of any track;
 - (b) Grandstand size and type of construction, including a copy of an architect's plans with details of proposed construction;
 - (c) Security and safety measures to be taken for safety of public and license holders;
 - (d) Fire protection and law enforcement;
 - (e) Parking facilities and capacity;
 - (f) Number and type of stables, including capacity and fire prevention facilities;
 - (g) Facilities for owners of animals and other racing personnel;
 - (h) Arrangements for food and drink concessions. Providers of concessions, if operating as a lessee, shall provide the same ownership and financial records as an applicant;
 - (i) Racing dates requested;
 - (j) Kind of race conducted;
 - (k) Pari-mutuel operation and terms of ticket sales; and
 - (l) Financing arrangements for the construction of the track. Such arrangements may include the issuance of bonds by a county or a municipality; provided, that any issuance of bonds by a county or a municipality may not include the issuance of general obligation bonds or a pledge of the credit of the county or municipality.
- (iii) Association membership.
- (a) Proof of membership or application therefor in the Thoroughbred Racing Association (TRA), if the applicant proposes to conduct thoroughbred racing; or
 - (b) Proof of membership or application therefor in the United States Trotting Association (USTA), if the applicant proposes to conduct standardbred racing;
- (C) Bond. A cash bond in an amount to be established by rule of the commission. The bond shall guarantee the applicant's performance, if issued a license;

- (3) The commission shall request the assistance of the Tennessee bureau of investigation in performing background investigations on any applicant;
- (4) The commission shall appoint three (3) stewards to serve each day of any race meeting at the track of a licensed racing association. Two (2) of the stewards shall be nominated by the association, but shall be subject to approval and appointment by the commission. The remaining steward shall be appointed by the commission. The commission shall be required to show just cause for not appointing a person nominated by an association to be a steward. All stewards shall be paid equally by the commission;
- (5) The commission shall promulgate a set of rules and regulations for the holding, conducting and operating of all race meetings conducted in this state, as long as such rules and regulations are uniform in their application and effect;
- (A) The commission shall cause this set of rules and regulations to be published and distributed to each association and every licensee under this chapter;
- (B) The published set of rules and regulations shall contain:
- (i) The racing law;
 - (ii) A complete set of definitions;
 - (iii) Table of contents and an index;
 - (iv) Rules, regulations and conditions applying to each racing official, licensee and other persons and things which the commission believes to be pertinent to the accomplishment of this chapter.
- (C) Such rules, regulations and conditions shall be consistent with this chapter and provide for and deal with, by way of illustration and without limitation, the following:
- (i) Racing terms and definitions;
 - (ii) General rules of racing;
 - (iii) Authorized agents;
 - (iv) Claiming of race horses;
 - (v) Clerk of scales;
 - (vi) Racing colors;
 - (vii) Corrupt and fraudulent practices;
 - (viii) Daily double;
 - (ix) Dead heats;
 - (x) Declarations and scratches;

 - (xi) Drivers;
 - (xii) Engagements and transfers;
 - (xiii) Entries in races;
 - (xiv) Equipment and equipment changes;
 - (xv) Fines and suspensions;
 - (xvi) Handicapper;
 - (xvii) Jockeys;
 - (xviii) Jockey apprentices;
 - (xix) Jockey room custodians;
 - (xx) Licenses;
 - (xxi) Licensee's duties and obligations;
 - (xxii) Concessionaires and caterers;
 - (xxiii) Objections;
 - (xxiv) Owners and breeders;
 - (xxv) Paddock judges;
 - (xxvi) Paddock to post;
 - (xxvii) Pari-mutuel departments at tracks;
 - (xxviii) Pari-mutuel betting and types thereof;
 - (xxix) Partnerships;
 - (xxx) Patrol judges;
 - (xxxi) Placing judges;
 - (xxxii) Post positions;
 - (xxxiii) Post to finish;
 - (xxxiv) Postponements and cancellations of race days;
 - (xxxv) Races: Thoroughbred, Standardbred, Quarter Horse, Appaloosa, Arabian, others;

- (xxxvi) Racing officials;
- (xxxvii) Racing secretary;
- (xxxviii) Refunds;
- (xxxix) Stable names;
- (xl) Official starter;
- (xli) Stewards;
- (xlii) Timers;
- (xlili) Trainers;
- (xliv) Vendors;
- (xlv) Veterinarians;
- (xlvi) Walking over;
- (xlvii) Weights, scales of;
- (xlviii) Weighing in, and weighing out;
- (xlix) Weight penalties and allowances;
- (l) Winnings, purses, prizes, etc.;
- (li) Conduct detrimental to the best interests of racing;
- (lii) Qualifications, terms and conditions of licensing;
- (liii) Multiple wagering;
- (liv) Jockeys' and drivers' agents; and
- (lv) Medications and chemical testing;

(D) The commission shall cause this set of rules and regulations to be published and distributed to each association and licensee which shall familiarize themselves with the rules, regulations and conditions contained therein. Failure to abide by such rules, regulations and conditions shall result in the suspension or revocation of that person's license to act in any capacity in racing in this state;

(6) The commission may delegate to the stewards and judges such powers and duties as are necessary to fully carry out and effectuate the purposes of this chapter;

(7) The commission may visit and investigate the offices, tracks or places of business of any association, and place therein expert accountants and such other personnel as it deems necessary for the purposes of ascertaining compliance with the rules and regulations of the commission;

(8) The commission shall collect the fees payable for a permit or license issued by it, and shall supervise the pari-mutuel departments at all tracks in this state;

(9) The commission shall employ a chemist or contract with either a duly qualified chemical laboratory or university to determine by chemical testing and analysis of saliva, urine, blood or other excretions of body fluids, whether or not any prohibited substances have been introduced which would affect the outcome of any race, or whether or not any action has been taken or any substance or drug has been introduced which may interfere with the testing procedure. Procedures therefor and any action taken on positive reports shall be in conformity with the standards of the Association of Racing Commissioners International (ARCI), the Association of Official Racing Chemists (AORC) or such other procedures or standards as the commission may require. The commission may collect from each race meeting licensee an amount not to exceed such licensee's pro rata share of the costs associated with conducting such procedures; provided, that when chemical testing and analysis is requested by the owner or trainer of a horse, the owner or trainer shall reimburse the commission for the cost of the testing procedure;

(10) The commission shall appoint a supervisor of mutuels, security personnel and as many other employees as may be necessary for the enforcement of the laws of this state and the rules and regulations of the commission;

(A) The supervisor of mutuels shall supervise the wagering and the pari-mutuel departments of all race meetings and shall enter into no other employment involving racing or pari-mutuel wagering either within or without this state during those periods of time that the supervisor of mutuels is serving in such capacity at a race meeting;

(B) The security personnel appointed by the commission shall assist in keeping the peace at all race meetings, shall enforce all laws of the state relating to racing and all rules and regulations of the commission, and perform such duties as the commission may prescribe. In such capacity, these security personnel shall have the authority of law enforcement officers; the jurisdiction of such officers is statewide;

(11) The commission shall establish a security division charged with the responsibility for such investigative matters relating to the proper conduct of racing and pari-mutuel wagering including, but not

limited to, the following:

(A) Barring undesirables from the premises of any race meeting;

(B) Undercover investigations;

(C) (i) Fingerprinting of each person applying to the commission for a license, as a prerequisite for licensure. The commission shall submit such fingerprints to the federal bureau of investigation and to the Tennessee bureau of investigation for the purpose of determining whether the fingerprinted applicant has any recorded arrests or convictions.

(ii) Instead of being fingerprinted by the commission's security division, the commission may allow an applicant for licensure to submit the applicant's fingerprints to the Association of Racing Commissioners International (ARCI) in accordance with the procedures established pursuant to the federal Pari-mutuel Licensing Simplification Act of 1988, when the results of such submittal will be acceptable for the commission's licensing purposes. The commission may require that each such applicant also submit a fingerprint card to the commission.

(iii) The commission may by rule establish the frequency of submission of fingerprints by applicants and a fee for the background checks enabled by the submission of fingerprints.

(D) Production and distribution of photographed identification cards to each racing official and licensee of the commission; and

(E) The security division shall be assisted in this capacity by the Thoroughbred Racing Protective Bureau (TRPB), the Tennessee bureau of investigation, or local law enforcement officers;

(12) The commission may grant, refuse, suspend or revoke licenses issued pursuant to this chapter in conformance with the regulations governing such procedure as provided in this chapter;

(13) The commission shall require of each applicant for a license to conduct a race meeting, an application statement under oath that the information supplied therein is true and not misleading. Failure to do so shall result in the delay, refusal, suspension or revocation of a license to conduct a race meeting in this state;

(14) The commission shall publicly state its reasons for refusing, suspending or revoking a license granted by it, and such reasons shall be included in the minute book of the commission, and such book shall be open to public inspection during all regular office hours of the commission;

(15) The commission shall make rules governing, restricting or regulating bids on leases;

(16) The commission shall approve all proposed additions, extensions, improvements or original construction of buildings, stables or tracks upon property owned or leased by a licensee if such extension, addition, improvement or original construction is related to the conduct of a race meeting in this state;

(17) The commission shall completely supervise and control the pari-mutuel machines and equipment at all race meetings conducted in this state; and

(18) The commission may perform such other duties and functions as the commission deems necessary and desirable to ensure the honest and efficient conduct of racing in this state.

[Acts 1987, ch. 311, § 23; 1988, ch. 939, § 1; 1988, ch. 950, §§ 1, 2; 1990, ch. 684, §§ 3-5; 1996, ch. 1080, §§ 2, 8.]

4-36-303. Pari-mutuel wagering races.

(a) The commission may prescribe rules and regulations under which a live race may be run or a simulcast race may be presented at a recognized race meeting in this state upon which results the pari-mutuel style of wagering is solely permitted.

(b) (1) Only those persons licensed by the commission to conduct race meetings in this state may conduct pari-mutuel wagering, and such wagering shall be conducted only on the association's premises, notwithstanding any other statutes of this state to the contrary.

(2) Any association, except a fair, which requests approval for at least thirty-four (34) live racing days may also request approval to conduct simulcast wagering on dark days at the enclosure and/or simulcast

wagering at a satellite teletheater.

(3) An association which makes application for an initial race meeting license may request approval to conduct simulcast wagering on its premises which are within the same local governmental boundaries as its enclosure prior to the initial commencement of live racing at such enclosure. Such approval, however, shall not be given by the commission prior to the grant of a race meeting license. Such simulcast wagering shall be considered to be conducted at the enclosure.

(c) (1) Notwithstanding any other statutes of this state to the contrary, interstate combined pool wagering may be permitted on simulcast races, and the commission is authorized to enter into agreements with other racing commissions or boards and their respective states or jurisdictions to effect such combined pool wagering.

(2) Interstate simulcasts shall be in compliance with the Interstate Horseracing Act, 15 U.S.C. § 3001 et seq.

(3) With the approval of the commission, whenever an association participates in an interstate combined wagering pool, the association may adopt the take-out of the host jurisdiction or facility. Of the simulcast handle, the state of Tennessee shall receive one percent (1%) of the first six hundred thousand dollars (\$600,000) and two percent (2%) of the amount over six hundred thousand dollars (\$600,000) for distribution by the department of revenue in accordance with § [4-36-306\(b\)\(3\)](#) and (4), and shall receive one-half percent (0.5%) of the handle for deposit into the "racing development fund" established in § [4-36-105](#).

(4) The commission may permit an association to use one (1) or more of its races for interstate combined wagering pools at locations outside this state, and may allow pari-mutuel pools in other states or jurisdictions to be combined with pari-mutuel pools in this state for the purpose of establishing interstate combined wagering pools.

(5) The participation by an association in an interstate combined wagering pool shall not cause that association to be considered to be doing business in any jurisdiction other than the jurisdiction in which the association is physically located.

(6) Tennessee pari-mutuel taxes or retainage (the "take-out") may not be imposed on any amounts wagered in an interstate combined wagering pool other than on amounts wagered in this state.

(7) Breakage for interstate combined wagering pools shall be calculated in accordance with the statutes or rules of the host jurisdiction and shall be distributed among the participating jurisdictions in a manner agreed to by the jurisdictions.

(8) The commission may approve types of wagering, distribution of winnings, and rules of racing for simulcast races and interstate combined pool wagering that are different from those that normally apply in Tennessee.

(d) Any association conducting a race meeting under this chapter may provide a place or places in the race meeting enclosure at which such an association may conduct, under the supervision of the commission, the pari-mutuel system of wagering by patrons on the results of races, either live or simulcast, within the terms of this chapter.

(e) A place provided in conformity with this section shall be equipped with automatic ticket-issuing and vending machines with totalisating machine equipment capable of accurate and speedy determination of the amount of money in each wagering pool and on each entry and the amount or award owing to winning patrons and displaying same to patrons. Such machines shall be equipped with automatic or hand-operated machinery suitable for displaying on the totalisator board, located in the infield portion of the track within easy viewing distance of the patrons, the total amount of sales on each and every live or simulcast race and the amount of award to winning patrons.

[Acts 1987, ch. 311, § 27; 1993, ch. 248, § 2; 1996, ch. 1080, § 3.]

4-36-304. Valid license required - Fees.

- (a) No association shall conduct a race meeting without a valid license issued under this chapter authorizing the holding of such meeting.
- (b) The license fee to be paid by an association to hold a race meeting shall be for an association which:
- (1) Has not previously held a race meeting license issued by the commission:
- (A) Ten thousand dollars (\$10,000), to accompany the application;
- (B) Twenty-five thousand dollars (\$25,000), which shall also accompany the application, to defray the costs of background investigations required under § [4-36-302\(3\)](#). The commission shall refund to the applicant any unexpended balance of the investigation fee after the conclusion of the investigation and the payment of all expenses incident thereto; and
- (C) An amount not to exceed one thousand dollars (\$1,000) for each racing day. The commission may establish a fee amount based on simulcast racing days and a separate fee amount based on live racing days.
- (2) Held a race meeting license, issued by the commission, for the year preceding the race meeting dates applied for:
- (A) One thousand dollars (\$1,000), to accompany the application; and
- (B) An amount not to exceed one thousand dollars (\$1,000) for each racing day. The commission may establish a fee amount based on simulcast racing days and a separate fee amount based on live racing days.
- (c) Other occupational license fees shall be established by rule by the commission, but no single fee shall exceed one thousand dollars (\$1,000) a year.
- (d) The commission shall establish by rule a schedule of registration fees to be paid by those owners and breeders desiring to become eligible to receive supplemental purses which are conditioned on the winning, placing or showing by Tennessee bred horses in designated races at an association's track, as authorized under § [4-36-105\(f\)](#).

[Acts 1987, ch. 311, § 26; 1990, ch. 684, §§ 10, 12; 1993, ch. 248, § 3.]

4-36-305. Admissions tax - Record of admission tickets and attendance.

- (a) Each association shall pay to the commission an admissions tax of fifteen cents (15¢) for each person entering the grounds of the association upon a ticket of admission.
- (b) Accurate records and books shall at all times be kept and maintained by the association showing the admission tickets issued and used on each racing day and the attendance at each race meeting.

[Acts 1987, ch. 311, § 29.]

4-36-306. Amount of money retained by associations - Taxes - Breakage - Outstanding tickets - Racing development fund.

- (a) Each association may retain, subject to the payment of privilege taxes and the purses, an amount not to exceed seventeen percent (17%) of all money wagered, plus an additional amount equal to three and one-

half percent (3 1/2%) of the amount wagered on multiple wagering which involves a single wagering interest on two (2) horses, plus an additional amount equal to eight percent (8%) of the amount wagered on a multiple wagering which involves a single wagering interest on three (3) or more horses. In addition, each association shall retain one half of one percent (.5%) of all money wagered, which shall be forwarded to the department of revenue for allocation to the "racing development fund" established in § [4-36-105](#).

(b) (1) Each association conducting a race meeting under the provisions of this chapter shall pay to the department within forty-eight (48) hours after the close of a racing day, a tax in the amount established by the following table:

(A) Up to and including the first six hundred thousand dollars (\$600,000) of daily pari-mutuel handle 1%

(B) Over six hundred thousand dollars (\$600,000) 2%

(2) If an association conducts more than one (1) program on any day, each program shall be considered a separate racing day for the purpose of calculating the tax due. The tax shall be applied separately to the pari-mutuel handles at each track and/or simulcast teletheater. The association shall indicate to the department the amount of tax paid for each track and/or simulcast teletheater and the name of the municipality or county (if outside the corporate boundaries of a municipality) wherein the track and/or simulcast teletheater is located.

(3) (A) The department shall pay thirty percent (30%) of the tax paid by a track under this subsection to the director of finance or other appropriate financial officer of the municipality wherein such track is located. If a track is not located within the corporate boundaries of a municipality, the department shall pay thirty percent (30%) of the tax paid by such track under this subsection to the director of finance or other appropriate financial officer of the county wherein such track is located. If a track is located in any county having a metropolitan form of government, the department shall pay thirty percent (30%) of the tax paid by such track under this subsection to the director of finance of the metropolitan government. The proceeds designated by this subdivision for a local government shall be earmarked for law enforcement, rehabilitation referral services or programs for problem and compulsive gamblers, and education programs. If the commission determines that a proposed track will increase expenditures in a city or county other than the city or county in which the track is located, the commission shall have the power to require that a portion of the tax proceeds allocated in this subsection shall be paid by the department to such city or county.

(B) The department shall pay thirty percent (30%) of the tax paid by a satellite teletheater under this subsection to the director of finance or other appropriate financial officer of the municipality wherein such satellite teletheater is located. If a satellite teletheater is not located within the corporate boundaries of a municipality, the department shall pay thirty percent (30%) of the tax paid by a satellite teletheater under this subsection to the director of finance or other appropriate financial officer of the county wherein such satellite teletheater is located. If a satellite teletheater is located in any county having a metropolitan form of government, the department shall pay thirty percent (30%) of the tax paid by a satellite teletheater under this subsection to the director of finance of the metropolitan government. The proceeds designated by this subdivision for a local government shall be earmarked for law enforcement, rehabilitation referral services or programs for problem and compulsive gamblers and education programs. If the commission determines that a proposed satellite teletheater will increase expenditures in a city or county other than the city or county in which the satellite teletheater is located, the commission shall have the power to require that a portion of the tax proceeds allocated in this subsection shall be paid by the department to such city or county.

(4) The remaining seventy percent (70%) shall be allocated to local governments as follows:

(A) Thirty-three percent (33%) of the amount available shall be paid to counties in accordance with the percentage that the population of each county bears to the total state population;

(B) Thirty-three percent (33%) of the amount available shall be paid to counties in accordance with the percentage that the total acreage of each county bears to the total acreage of the state; and

(C) Thirty-four percent (34%) of the amount available shall be paid to incorporated municipalities in accordance with the percentage that the population of each incorporated municipality bears to the population of all incorporated municipalities; provided, that the local governmental entity receiving the tax proceeds under subdivision (b)(3) shall not participate in the distribution under this subdivision (b)(4).

(c) No other organization license fee, privilege tax, excise tax or racing fee, except as provided in this chapter, shall be assessed or collected from any association by the state or any unit of local government; and, notwithstanding the provisions of § [/sdCGI-BIN/om_isapi.dll?clientID=1886&hitsperheading=on&infobase=tncode.NFO&jump=67-4-712&softpage=Document - JUMPDEST 67-4-71267-4-712\(c\)](#) or any other section to the contrary, the transfer of ownership of a horse by means of a claiming race shall not be subject to taxation.

(d) Breakage shall at all times be computed on a basis not to exceed ten cents (10¢) on the dollar. An association is entitled to retain thirty-three percent (33%) of the total amount of breakage each day. Thirty-three percent (33%) shall be remitted to the department which shall pay the money into the "racing development fund" established in § [/sdCGI-BIN/om_isapi.dll?clientID=1886&hitsperheading=on&infobase=tncode.NFO&jump=4-36-105&softpage=Document - JUMPDEST 4-36-1054-36-105](#). The remaining thirty-four percent (34%) shall be remitted to the department, which shall pay the money equally to each of the major zoological institutions in this state, which contains a zoological garden and collection of living animals and provides for their care and housing for public exhibition and which is owned, operated or leased by a municipal or county government.

(e) (1) Funds for payment of outstanding pari-mutuel tickets shall be held by the association in an interest-bearing special escrow account for one (1) year from the date of issuance.

(A) The interest earned shall be apportioned and paid out as set out for the principal in this subsection.

(B) Within the special escrow account, the commingling of funds from outstanding pari-mutuel tickets and any interest earned thereon with funds from other sources is prohibited.

(2) At the end of one (1) year, thirty-three percent (33%) of the funds shall become the property of the association.

(3) Thirty-three percent (33%) shall be remitted to the department which shall pay the money into the "racing development fund" established in § [/sdCGI-BIN/om_isapi.dll?clientID=1886&hitsperheading=on&infobase=tncode.NFO&jump=4-36-105&softpage=Document - JUMPDEST 4-36-1054-36-105](#).

(4) The remaining thirty-four percent (34%) shall be remitted to the department, which shall pay the money equally to each of the major zoological institutions in this state which contains a zoological garden and collection of living animals and provides for their care and housing for public exhibition and which is owned, operated or leased by a municipal or county government.

(f) If, after one (1) year, a pari-mutuel ticket is presented to the association for payment, the association shall pay the same and may charge the amount thereof against unpaid money similarly accumulated on account of pari-mutuel tickets not presented for payment.

[Acts 1987, ch. 311, § 28; 1990, ch. 684, §§ 6-9; 1993, ch. 248, §§ 4, 5; 1996, ch. 1080, §§ 4, 5.]

4-36-307. Residence of association employees.

(a) At least eighty percent (80%) of the individuals employed by an association at any race meeting must be citizens and residents of Tennessee and have been such citizens and residents for at least one (1) year.

(b) For the purpose of this section, citizens and residents of this state shall be construed to mean individuals who maintain a permanent place of residence in this state and who have been bona fide residents and citizens of this state for a period of one (1) year immediately prior to the filing of their applications for employment.

(c) The provisions of this section shall not apply to trainers, jockeys, groomsmen, individuals engaged in the construction of a racetrack, in the equipping of same, or to officials designated by the commission or officials designated by the executive officials of an association.

[Acts 1987, ch. 311, § 25.]

4-36-308. Restrictions on wagering by certain persons.

(a) No employee of an association, licensed to conduct a race meeting, shall place wagers upon races on that meeting.

(b) No deputies, officers, representatives, employees or counsel of the commission shall wager upon the outcome of any race conducted at a track at which pari-mutuel wagering is conducted by any association within this state.

(c) No employee or official connected with the pari-mutuel department at any race meeting may place a wager on the outcome of any race conducted in this state.

[Acts 1987, ch. 311, § 30.]

4-36-309. Exclusion or ejection of persons.

(a) The commission may, by rule and through the actions of its own security division, exclude or eject from the licensed premises any known bookmaker, tout, person who has been convicted in violation of any provision of this section or of any law prohibiting bookmaking or any other illegal act relating to the racing of horses, or any other person whose presence on the premises would, in the opinion of the duly authorized security division, not be conducive to the best interests of the public or the sport of racing. No such rule shall provide for the exclusion or ejection of a person on the grounds of race, color, creed, national origin

or sex.

(b) Any person who, pursuant to a rule of the commission, is excluded or ejected from any racetrack where racing is authorized and licensed in this state, may apply to the commission for a hearing on the question of whether the rule is applicable to such person.

(c) Any person who is excluded or ejected from the premises of an association, pursuant to a rule or rules promulgated by the commission, commits a misdemeanor if such person thereafter enters the premises of any licensed track in this state without first having obtained a determination from the commission that the rule pursuant to which such person was excluded or ejected should not apply.

[Acts 1987, ch. 311, § 31.]

4-36-310. Minimum age for wagering.

No person under eighteen (18) years of age shall be permitted to wager at any race meeting.

[Acts 1987, ch. 311, § 24.]

4-36-311. Fairs.

Notwithstanding any other provisions of this part to the contrary, the commission may establish by rule, separate provisions regarding the conduct of live racing and simulcasts by fairs. Such provisions shall include, but not be limited to, content of race meeting license applications, qualifications for licensure, criteria for consideration of a license application, fees and bonds, association duties and obligations, length of race meetings, wagering at the enclosure and/or satellite simulcast teletheaters, and commission personnel.

[Acts 1996, ch. 1080, § 6.]

PART 4 LOCAL OPTION

4-36-401. Local referendum on pari-mutuel wagering.

(a) Upon enactment, a county or municipal legislative body may by resolution or ordinance call a referendum on whether racing with pari-mutuel wagering shall be permitted in that county or municipality. Upon approval by the county or municipal legislative body, the county election commission shall call a referendum at the next regularly scheduled county-wide or municipality-wide general election on the question of whether horse racing with pari-mutuel wagering shall be permitted in that county or municipality. The question to be placed on the ballot shall read as follows:

Shall **(here insert name of county or municipality)** permit pari-mutuel wagering on horse racing?
FOR ____ AGAINST ____

(b) As an alternative to a county or municipality by resolution or ordinance calling a referendum, a petition signed by the residents of a county or municipality, as the case may be, equal to or exceeding a number amounting to ten percent (10%) of the votes cast for sheriff at the last preceding August general election shall require the county election commission to place the question stated in subsection (a) on the ballot at the next regularly scheduled election. No referendum under this chapter may be placed on the same ballot or conducted on the same day of a primary election. Such petition shall be addressed to the county election commission of such county, or county in which such municipality is located, and shall read, except for such address, substantially as follows:

"We, registered voters of **(here insert name of county or municipality, as the case may be)**, hereby request the holding of a referendum on the question of whether horse racing with pari-mutuel wagering shall be permitted."

Such petition may be in two (2) or more parts.

(c) (1) If a county or municipality, except as provided in subdivision (c)(2), conducts a referendum under the provisions of this section and the number of qualified votes cast negative to the racing proposition exceeds sixty percent (60%) of the total number of votes cast in the election, no further racing proposition shall be placed on the ballot in that locality for a period of ten (10) years from the date of the previous election.

(2) If a county or municipality as specified below conducts a referendum under the provisions of this section and the number of qualified votes cast negative to the racing proposition exceeds sixty percent (60%) of the total number of votes cast in the election, no further racing proposition shall be placed on the ballot in that locality for a period of four (4) years from the date of the previous election. The provisions of this subdivision (c)(2) shall apply only in counties having populations according to the 1980 federal census or any subsequent federal census of:

not less than nor more than

4,700 4,800
7,400 7,500
8,600 8,700
9,400 9,500
13,700 13,800
24,200 24,300

24,400 24,500
41,800 41,900

(d) No provision in this chapter shall be construed as requiring the approval of any track. A determination of the commission as to whether or not to approve a proposed track shall be in the sole discretion of the commission and shall be subject to judicial review only in the event of official misconduct.

(e) After May 21, 1996, a county or municipal legislative body may by resolution or ordinance call a referendum on whether pari-mutuel wagering on horse racing shall be permitted at a satellite simulcast teletheater located in that county or municipality. Upon approval by the county or municipal legislative body, the county election commission shall call a referendum at the next regularly scheduled county-wide or municipality-wide general election on the question of whether pari-mutuel wagering on horse racing at a satellite simulcast teletheater shall be permitted in that county or municipality. The question to be placed on the ballot shall read as follows:

Shall **(here insert name of county or municipality)** permit pari-mutuel wagering on horse racing at satellite teletheaters?

FOR_____ AGAINST_____

(f) As an alternative to a county or municipality by resolution or ordinance calling a referendum, a petition signed by the residents of a county or municipality, as the case may be, equal to or exceeding a number amounting to ten percent (10%) of the votes cast for sheriff at the last preceding August general election shall require the county election commission to place the question stated in subsection (e) on the ballot at the next regularly scheduled election. Such petition shall be addressed to the county election commission of such county, or county in which such municipality is located, and shall read, except for such address, substantially as follows:

"We, registered voters of **(here insert name of county or municipality, as the case may be)**, hereby request the holding of a referendum on the question of whether pari-mutuel wagering on horse racing shall be permitted at satellite teletheaters."

Such petition may be in two (2) or more parts.

[Acts 1987, ch. 311, § 32; 1988, ch. 835, §§ 1, 2; 1988, ch. 950, §§ 3, 4; 1996, ch. 1080, § 7.]

4-36-402. Annexation of approved track locations - Designation of taxes.

If a municipality annexes a track location after its approval by the commission, the commission shall designate the portion of the tax provided for in § [4-36-306\(b\)\(3\)](#), to be paid to the municipality and the portion to be paid to the county.

[Acts 1987, ch. 311, § 33.]

**TITLE 6. CITIES AND TOWNS
MUNICIPALITIES GENERALLY**

CHAPTER 54. MUNICIPAL POWERS GENERALLY

PART 4. PUBLIC MORALS

6-54-401. Enforcement of laws for protection of public morals.

It is the duty of the mayors, commissioners, council members, aldermen, chiefs of police, recorders, municipal judges, marshals, and police officers of each municipal corporation, to faithfully maintain and enforce, within the corporate limits of their respective municipalities, the statute laws relating to lewdness, drunkenness, gaming, and the sale and manufacture of intoxicating liquors, by having arrested and arraigned for trial all persons violating such laws with their knowledge, and by taking such other proceedings against such violators as may be authorized and provided by the ordinances of such municipalities.

**TITLE 7. CONSOLIDATED GOVERNMENTS – GOVERNMENTAL AND
PROPRIETARY FUNCTIONS
SPECIAL DISTRICTS**

CHAPTER 86. EMERGENCY COMMUNICATIONS

PART 2. EMERGENCY DISPATCHES

7-86-201. Training - Qualifications.

(a) Except as provided in subsection (c), beginning July 1, 1997, all public safety dispatchers who receive requests for emergency aid by telephone or radio, or who dispatch emergency aid resources by radio or other telecommunication device shall have successfully completed a course of study approved by the committee created by [§ 7-86-202](#).

(b) Except as provided in subsection (d), in addition to the requirements of subsection (a), all such persons shall:

(1) Be at least eighteen (18) years of age;

(2) Be a citizen of the United States;

(3) (A) Be a high school graduate or possess equivalency;

(B) The requirement of subdivision (b)(3)(A) shall not apply to a public safety dispatcher in any county having a population of not less than thirteen thousand three hundred seventy-five (13,375) nor more than thirteen thousand six hundred (13,600), according to the 1990 federal census or any subsequent federal census, who, on May 22, 1997, is a public safety dispatcher in such county and has at least ten (10) years' experience as a public safety dispatcher;

(C) The requirement of subdivision (b)(3)(A) shall not apply to public safety dispatchers who, on May 30, 1997, have at least ten (10) years' experience as a public safety dispatcher and are public safety dispatchers in a city having a population of not less than eight hundred sixty (860) nor more than eight hundred seventy (870) which is located in any county having a population of not less than twenty-five thousand seven

hundred (25,700) nor more than twenty-six thousand (26,000) and in any county having a population of not less than twenty-eight thousand one hundred (28,100) nor more than twenty-eight thousand four hundred (28,400), all according to the 1990 federal census or any subsequent federal census;

(D) Notwithstanding any other provision of this subdivision (b)(3) to the contrary, a person shall be deemed to meet the requirements of this subdivision if such person has ten (10) years' experience as a public safety dispatcher or thirty (30) years' experience in emergency services or communications management.

(4) Not have been convicted or pleaded guilty to or entered a plea of nolo contendere to any felony charge or to any violation of any federal or state laws or city ordinances relating to force, violence, theft, dishonesty, gambling, liquor or controlled substances;

(5) Not have been released or discharged under any other than an honorable or medical discharge from any of the armed forces of the United States;

(6) Have such person's fingerprints on file with the Tennessee bureau of investigation;

(7) Have passed a physical examination by a licensed physician;

(8) Have a good moral character as determined by a thorough investigation conducted by the employing agency; and

(9) Be free of all apparent mental disorders as described in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders of the American Psychiatric Association. Applicants must be certified as meeting these criteria by a qualified professional in the psychiatric or psychological fields.

(c) All public safety dispatchers subject to the provisions of this part employed after July 1, 1997, shall have six (6) months from the date of their employment to comply with the provisions of this part.

(d) Notwithstanding any other provision of law to the contrary, the law in effect prior to May 1, 1994, relative to public safety dispatchers shall apply to any person who is more than fifty (50) years of age, has more than five (5) years of continuous employment as a public safety dispatcher on May 20, 1998, and has a congenital defect or a disability which would qualify under the American with Disabilities Act of 1990, 42 U.S.C. § 12101, et seq.

TITLE 8. PUBLIC OFFICERS AND EMPLOYEES

CHAPTER 8. SHERIFFS

PART I. APPOINTMENT – VACANCY

8-8-102. Qualifications for office - Affidavits.

(a) To qualify for election or appointment to the office of sheriff, a person shall:

(1) Be at least twenty-one (21) years of age;

(2) Be a qualified voter of the county;

(3) Be a high school graduate or possess equivalency;

(4) Not have been convicted by a court of the United States, the state of Tennessee, or any state or territory of the United States of an offense that was a felony;

(5) Not have been released or discharged from the armed forces of the United States with a dishonorable discharge;

(6) Have caused such person's fingerprints to be filed with the Tennessee bureau of investigation;

(7) Have been certified by a qualified professional in the psychiatric or psychological fields to be free of all apparent mental disorders as described in the Diagnostic and Statistical Manual of Mental Disorders, Third Edition (DSM-III), or its successor, of the American Psychiatric Association.

The requirements of this subsection apply to any person who holds the office of sheriff on May 30, 1997.

However, in order to qualify for any subsequent election or appointment to the office of sheriff, such person shall meet the requirements of subsection (b).

(b) After May 30, 1997, to qualify for election or appointment to the office of sheriff a person shall:

(1) Be a citizen of the United States;

- (2) Be at least twenty-five (25) years of age prior to the date of qualifying for election;
- (3) Be a qualified voter of the county;
- (4) Have obtained a high school diploma or its equivalent in educational training as recognized by the Tennessee state board of education;
- (5) Not have been convicted of or pleaded guilty to or entered a plea of nolo contendere to any felony charge or any violation of any federal or state laws or city ordinances relating to force, violence, theft, dishonesty, gambling, liquor or controlled substances; so long as the violation involves an offense that consists of moral turpitude a misdemeanor crime of domestic violence;
- (6) Be fingerprinted and have the Tennessee bureau of investigation make a search of local, state and federal fingerprint files for any criminal record. Fingerprints are to be taken under the direction of the Tennessee bureau of investigation. It shall be the responsibility of the T.B.I. to forward all criminal history results to the Peace Officer Standards and Training (POST) commission for evaluation of qualifications;
- (7) Not have been released, separated or discharged from the Armed Forces of the United States with a Dishonorable or Bad Conduct discharge, or as a consequence of conviction at court martial for either state or federal offenses;
- (8) Have been certified by a qualified professional in the psychiatric or psychological fields to be free of all apparent mental disorder as described in the Diagnostic and Statistical Manual of Mental Disorders, Third Edition (DSM III) or its successor, of the American Psychiatric Association; and
- (9) Possess a current and valid peace officer certification as issued by the Tennessee POST commission as provided in § [38-8-107](#), and as defined in [title 38, chapter 8](#), within twelve (12) months prior to the close of qualification for the election for the office of sheriff.

In the event that certification for peace officer is inactive or no longer valid, proof of the intent to run for the office of sheriff shall be presented to the POST commission for approval to take the POST certification examination; provided, that all requirements are met as set forth in subdivisions (b)(1)-(8) and those set by the commission.

The provisions of this subdivision shall not apply in any county having a metropolitan form of government where the sheriff does not have law enforcement powers.

(c) Any person seeking the office of sheriff shall file with the POST commission, either prior to the qualification deadline for such office, or after filing the qualifying petition for such office, an affidavit sworn to and signed by the candidate affirming that the candidate meets the requirements of this section. If such affidavit is not filed with the POST commission by the withdrawal deadline for the office of sheriff, such candidate's name shall not be placed on the ballot. The POST commission shall verify POST certification on any person seeking the office of sheriff who meets these provisions. The original notarized verification form from POST, along with such person's nominating petition shall be filed with the county election commission. In the event that a person seeks election to the office of sheriff by the county legislative body to fill a vacancy in office, such verification must be filed with the county clerk prior to the election.

(d) Every person who is elected or appointed to the office of sheriff after May 30, 1997, shall, annually during such term of office, complete a forty-hour in-service training course appropriate for the rank and responsibilities of a sheriff. The training course shall be taught at the Tennessee Law Enforcement Training Academy. The curriculum shall be developed by the Tennessee Sheriff's Association and approved by the Tennessee POST commission. Any such sheriff who does not fulfill the obligations of this training course shall lose the power of arrest.

(e) (1) Notwithstanding any provision of subsections (b)-(e) to the contrary, a current and valid peace officer certification issued by the Tennessee POST commission or training that is approved by or meets the standard on minimum hours required to be certified by the POST commission is not a requirement for a person to initially qualify for election to the office of sheriff. However, if such a person qualifies to run for the office of sheriff and is elected to the office, such person shall be required to enroll, within six (6) months after taking office, in the recruit training program offered by the Tennessee Law Enforcement Training Academy. Any cost associated with obtaining such POST certification shall be paid by the county. For such person to qualify for the office of sheriff in any subsequent election, the person must have completed such recruit training program and have obtained POST certification during such person's first term of office as sheriff.

(2) If, pursuant to subdivision (e)(1), a person is elected to the office of sheriff, and the person does not possess a current and valid peace officer certification, upon taking office the salary of such person shall be fifteen percent (15%) less than the salary of a person initially elected to the office of sheriff who does

possess a current and valid certification; provided, that if during the first year in office, such person completes the recruit training program and obtains certification, the salary of such person shall, as a matter of law, automatically be raised the month following the date certification is obtained to the level of other persons initially elected to the office of sheriff who are certified. However, if such a person does not complete the recruit training program and obtain certification during the person's first year in office, then the following reduction in salary shall occur as a matter of law, until such person obtains certification:

(A) During the second year in office, the salary shall be twenty percent (20%) less than the salary of a first-term sheriff who is certified;

(B) During the third year in office, the salary shall be twenty-five percent (25%) less than the salary of a first-term sheriff who is certified; and

(C) During the fourth year in office, the salary shall be thirty percent (30%) less than the salary of a first-term sheriff who is certified.

Notwithstanding such salary schedule, the salary shall, as a matter of law, be automatically raised the month following the date certification is obtained to the level of a first-term sheriff who is certified.

(3) As used in this subsection, "certification" or "certified" means a current and valid peace officer certification issued by the Tennessee POST commission or training that is approved by or meets the standard on minimum hours required to be certified by the Tennessee POST commission.

CHAPTER 47. REMOVAL OF OFFICERS

8-47-101. Officers subject to removal - Grounds.

Every person holding any office of trust or profit, under and by virtue of any of the laws of the state, either state, county, or municipal, except such officers as are by the constitution removable only and exclusively by methods other than those provided in this chapter, who shall knowingly or willfully commit misconduct in office, or who shall knowingly or willfully neglect to perform any duty enjoined upon such officer by any of the laws of the state, or who shall in any public place be in a state of intoxication produced by strong drink voluntarily taken, or who shall engage in any form of gambling, or who shall commit any act constituting a violation of any penal statute involving moral turpitude, shall forfeit such office and shall be ousted from such office in the manner hereinafter provided.

TITLE 28. LIMITATIONS OF ACTIONS

CHAPTRE 3. LIMITATION OF ACTIONS OTHER THAN REAL

PART 1. MISCELLANNEOUS LIMITATIONS

28-3-106. Recovery of gambling losses.

Actions to recover money or goods lost at any kind of gambling or betting, and paid or delivered:

(1) If brought by the loser, shall be commenced within ninety (90) days next after such payment or delivery;

(2) If brought for the use of the wife, child or children, or next of kin, within twelve (12) months from the expiration of the ninety (90) days;

(3) If by a creditor of the loser, within twenty-four (24) months from the end of the ninety (90) days.

TITLE 29. REMEDIES AND SPECIAL PROCEEDINGS

CHAPTER 3. ABATEMENT OF NUISANCES

29-3-101. Definitions - Maintenance and abatement of nuisance - Forfeiture of property - Payment of moneys from forfeiture into general funds.

(a) As used herein:

(1) "Lewdness" includes all matter of lewd sexual conduct or live exhibition, and includes, but is not limited to, possession, sale or exhibition of any:

(A) Obscene films or plate positives;

(B) Films designed to be projected upon a screen for exhibition; or

(C) Films or slides, either in negative or positive form, designed for projection on a screen for exhibition;

(2) "Nuisance" means that which is declared to be such by other statutes, and in addition thereto means any place in or upon which lewdness, assignation, prostitution, unlawful sale of intoxicating liquors, unlawful sale of any regulated legend drug, narcotic or other controlled substance, unlawful gambling, any sale, exhibition or possession of any material determined to be obscene or pornographic with intent to exhibit, sell, deliver or distribute matter or materials in violation of §§ [39-17-901](#) - [39-17-908](#), § [39-17-911](#), § [39-17-914](#), § [39-17-918](#), or §§ [39-17-1003](#) - [39-17-1005](#), quarreling, drunkenness, fighting or breaches of the peace are carried on or permitted, and personal property, contents, furniture, fixtures, equipment and stock used in or in connection with the conducting and maintaining any such place for any such purpose;

(3) "Person" means and includes any individual, corporation, association, partnership, trustee, lessee, agent or assignee; and

(4) "Place" means and includes any building, room enclosure or vehicle, or separate part or portion thereof or the ground itself;

(b) Any person who uses, occupies, establishes or conducts a nuisance, or aids or abets therein, and the owner, agent or lessee of any interest in any such nuisance together with the persons employed in or in control of any such nuisance by any such owner, agent or lessee is guilty of maintaining a nuisance and such nuisance shall be abated as provided hereinafter.

(c) All furnishings, fixtures, equipment, moneys and stock, used in or in connection with the maintaining or conducting of a nuisance, are subject to seizure, immediately upon detection by any law enforcement officer and are subject to forfeiture to the state by order of a court having jurisdiction upon application by any of the officers or persons authorized by § [29-3-102](#), to bring action for the abatement of such nuisance; provided, that seizure for the possession of obscene matter shall be in accordance with §§ [39-17-901](#) - [39-17-908](#) and seizure for violations of §§ [39-17-1003](#) - [39-17-1005](#) shall be in accordance with §§ [39-17-1006](#) and [39-17-1007](#). Any property so forfeited shall be disposed of by public auction or as otherwise provided by law.

(d) All moneys from such forfeiture and all proceeds realized from the enforcement of this section shall be paid equally into the general funds of the state and the general funds of the political subdivision or other public agency, if any, whose officers made the seizure, except as otherwise provided by law.

CHAPTER 19. GAMBLING CONTRACTS

29-19-101. Void contracts.

All contracts founded, in whole or in part, on a gambling or wagering consideration, shall be void to the extent of such consideration.

[Code 1858, § 1769 (deriv. Acts 1799, ch. 8, § 1); Shan., § 3159; Code 1932, § 7812; T.C.A. (orig. ed.), § 23-1701.]

29-19-102. Action barred.

No money, or property of any kind, won by any species or mode of gambling, shall be recovered by action.

[Code 1858, § 1770 (deriv. Acts 1801, ch. 38, § 1); Shan., § 3160; Code 1932, § 7813; T.C.A. (orig. ed.), § 23-1702.]

29-19-103. Qui tam for bringing action.

Any person who institutes an action for money or property, claimed under a contract founded on a gambling consideration, shall forfeit one hundred dollars (\$100), recoverable in any court having cognizance; one-half (1/2) to him who shall sue therefor, the other half to the county in which action is brought.

[Code 1858, § 1774 (deriv. Acts 1799, ch. 8, § 5); Shan., § 3164; Code 1932, § 7817; T.C.A. (orig. ed.), § 23-1703.]

29-19-104. Action for property lost.

Any person who has paid any money, or delivered anything of value, lost upon any game or wager, may recover such money, thing, or its value, by action commenced within ninety (90) days from the time of such payment or delivery.

[Code 1858, § 1771 (deriv. Acts 1799, ch. 8, § 4); Shan., § 3161; Code 1932, § 7814; T.C.A. (orig. ed.), § 23-1704.]

29-19-105. Action for use of family.

Any other person may, after the expiration of the ninety (90) days, and within twelve (12) months thereafter, recover the amount of such money, thing, or its value, by action for the use of the wife; or, if no wife, the child or children; and, if no child or children, the next of kin of the loser.

[Code 1858, § 1772; Shan., § 3162; Code 1932, § 7815; T.C.A. (orig. ed.), § 23-1705.]

29-19-106. Action by creditor.

After the expiration of the time prescribed in § [29-19-105](#), and within twelve (12) months thereafter, any creditor of such losing party may, by garnishment or action, recover the amount of such money, thing, or its value, in satisfaction of so much of his debt.

[Code 1858, § 1773; Shan., § 3163; Code 1932, § 7816; T.C.A. (orig. ed.), § 23-1706.]

TITLE 38. PREVENTION AND DETECTION OF CRIME

CHAPTER 6. BUREAU OF INVESTIGATION

38-6-102. Criminal investigation division - Workers' compensation fraud investigation unit - Criminal intelligence unit.

(a) The criminal investigation division shall consist of not less than six (6) persons who shall be experienced in the detection of crime and in criminal work generally. The director, with the approval of the governor, however, may increase the number of persons employed in the criminal investigation division, to such number as may be found to be feasible and necessary. At least two (2) of such criminal investigators shall be normally detailed to service in each grand division of the state, but the director shall have power to detail any and all such investigators to service in grand divisions in case of emergency. The director, upon the request of the district attorney general of any judicial district, may assign such criminal investigators to aid such district attorney general in the investigation of any crime committed in the district attorney general's judicial district, but only when the district attorney general requests such aid. When detailed by the director to aid the district attorney general as aforementioned, such criminal investigators shall have full power to issue subpoenas for witnesses, serve the subpoenas, administer oaths to such witnesses as they may summon, to take written statements from them and, when so detailed, shall have the same powers with reference to the execution of criminal process, making arrests, and the like, as does the sheriff of the county in which such investigators are at work.

(b) Investigators of the bureau of investigation are authorized, without a request from the district attorney general, to make investigations in connection with any matters pertaining to fugitives from justice, the possible commission of any offense prohibited by [title 39, chapter 16](#), part 4, or any other offense involving corruption of or misconduct by a public official, and investigations pertaining to the employees or prospective employees of the bureau or the department of safety and all activities concerning organized crime. For the purposes of this section, "organized crime" is defined as the unlawful activities of the members of an organized, disciplined association engaged in supplying illegal goods and services, including, but not limited to, gambling, prostitution, loan sharking, narcotics, labor racketeering, and other unlawful activities of members of such organizations. The bureau is authorized to investigate allegations of felonious conduct resulting in serious bodily injury to a state inmate who is housed in a county or private correctional facility where the alleged perpetrator is an official, employee or trustee of the county or the private vendor if, after the district attorney general is notified by the department of correction of such felonious conduct, the district attorney general refuses to request the bureau to make an investigation. The bureau shall forward the results of any such investigation to the department of correction and the district attorney general. The bureau also is authorized, upon the request of the governor, the attorney general and reporter, any member of the board, the commissioner of correction or a district attorney general to conduct investigations into allegations of fraud, corruption, or dishonesty involving the granting, revoking or denying of paroles, release classification status or executive clemency of any type. The governor, a district attorney general, the attorney general and reporter, or the board of probation and parole acting at the request of the governor, may request the assistance of the bureau to determine whether any recipient of executive clemency of any type has been or is presently abiding by the terms and conditions imposed upon the governor's granting of executive clemency of any type. However, the bureau shall coordinate its activities whenever possible with municipal, county, and federal police agencies with emphasis toward providing strike force capabilities to high crime areas within the state. The bureau shall continue to utilize the communications systems of the department of safety.

(c) Whenever a district attorney general may refuse or neglect to present the results of any investigation undertaken hereunder to a grand jury, the director or the director's designated representative may appear before the grand jury and seek a presentment, and the grand jury shall have the power to issue compulsory process for the appearance of witnesses. In the event the grand jury returns a presentment and the district attorney general refuses to prosecute, the director may petition for the appointment of a district attorney general pro tempore as provided for in § [8-7-106](#).

(d) There is established within the criminal investigation division a special workers' compensation fraud investigation unit. This unit shall investigate cases of workers' compensation fraud under [title 50, chapter 6](#), referred by the department of commerce and insurance and the department of labor. The unit shall work in cooperation with the fraud unit of the department of commerce and insurance, the department of labor, the district attorneys general and other law enforcement agencies. A summary of the unit's work shall be included in the bureau's annual report.

(e) The director of the Tennessee bureau of investigation shall cause to be established within the criminal investigation division a criminal intelligence unit (CIU). It shall be the responsibility of the CIU, through the automated criminal intelligence system of Tennessee (ACIST), as well as through criminal investigators assigned to each of the bureau's four regional offices, to gather and maintain criminal intelligence on criminal gang activity. Intelligence collected pursuant to this section shall be reviewed for compliance with 28 CFR Part 23.20 and shall be disseminated to local, state, and federal law enforcement agencies pursuant to 28 CFR Part 23.20. The bureau shall analyze all criminal intelligence collected, and shall compile statistical information for dissemination through the national incident-based reporting system (NIBRS) and the bureau's annual report.

38-6-111. Disposal of gambling devices.

Any gambling device confiscated by the Tennessee bureau of investigation pursuant to a lawful order which has become final, including appeals, may in lieu of destruction be ordered sold at public sale after

the removal and destruction of the gambling circuitry and mechanisms. The proceeds of such sales shall be deposited with the Tennessee bureau of investigation and budgeted to procure equipment for the forensic services division of the bureau.

CHAPTER 8. EMPLOYMENT AND TRAINING OF POLICE OFFICERS

PART 1. GENERAL PROVISIONS

38-8-106. Qualifications of police officers.

After July 1, 1981, any person employed as a full-time police officer, and after January 1, 1989, any person employed/utilized as a part-time/temporary/reserve/auxiliary police officer or as a special deputy, shall:

- (1) Be at least eighteen (18) years of age;
- (2) Be a citizen of the United States;
- (3) Be a high school graduate or possess equivalency;
- (4) Not have been convicted of or pleaded guilty to or entered a plea of nolo contendere to any felony charge or to any violation of any federal or state laws or city ordinances relating to force, violence, theft, dishonesty, gambling, liquor or controlled substances;
- (5) Not have been released or discharged under any other than honorable discharge from any of the armed forces of the United States;
- (6) Have such person's fingerprints on file with the Tennessee bureau of investigation;
- (7) Have passed a physical examination by a licensed physician;
- (8) Have a good moral character as determined by a thorough investigation conducted by the employing agency; and
- (9) Be free of all apparent mental disorders as described in the Diagnostic and Statistical Manual of Mental Disorders, Third Edition (DSM-III) of the American Psychiatric Association. An applicant must be certified as meeting these criteria by a qualified professional in the psychiatric or psychological field.

TITLE 39. CRIMINAL OFFENSES

CHAPTER 17. OFFENSES AGAINST PUBLIC HEALTH, SAFETY AND WELFARE

PART 5. GAMBLING

39-17-501. Definitions.

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

- (1) "Gambling" means risking anything of value for a profit whose return is to any degree contingent on chance, but does not include a lawful business transaction;
- (2) "Gambling bet" means anything of value risked in gambling;
- (3) "Gambling device or record" means anything designed for use in gambling, intended for use in gambling, or used for gambling;

- (4) "Lawful business transaction," as used in subdivision (1), includes any futures or commodities trading;
- (5) "Lottery" means the selling of anything of value for chances on a prize or stake; and
- (6) "Profit" means anything of value in addition to the gambling bet.

[Acts 1989, ch. 591, § 1; 1990, ch. 945, § 1.]

39-17-502. Gambling.

- (a) A person commits an offense who knowingly engages in gambling.
- (b) The offense of gambling is a Class C misdemeanor.

[Acts 1989, ch. 591, § 1.]

39-17-503. Gambling promotion.

- (a) A person commits an offense who knowingly induces or aids another to engage in gambling, and:
 - (1) Intends to derive or derives an economic benefit other than personal winnings from the gambling; or
 - (2) Participates in the gambling and has, other than by virtue of skill or luck, a lesser risk of losing or greater chance of winning than one (1) or more of the other participants.
- (b) The offense of gambling promotion is a Class B misdemeanor.

[Acts 1989, ch. 591, § 1.]

39-17-504. Aggravated gambling promotion.

- (a) A person commits an offense who knowingly invests in, finances, owns, controls, supervises, manages or participates in a gambling enterprise.
- (b) For purposes of this section, "gambling enterprise" means two (2) or more persons regularly engaged in gambling promotion as defined in § [39-17-503](#).
- (c) The offense of aggravated gambling promotion is a Class E felony.

[Acts 1989, ch. 591, § 1.]

39-17-505. Possession of gambling device or record - Forfeiture.

(a) A person commits an offense who knowingly owns, manufactures, possesses, buys, sells, rents, leases, stores, repairs, transports, prints or makes any gambling device or record. However, it is not an offense for a person to own or possess in this state a lottery ticket originating from a state in which a lottery is lawful, if such ticket is not owned or possessed for the purpose of resale.

(b) (1) Any gambling device or record is contraband and shall be subject to seizure, confiscation and forfeiture in accordance with the provisions of the general forfeiture statute, codified in § 39-11-116 [repealed].

(2) After a gambling device or record has been forfeited to the state pursuant to § 39-11-116, the court hearing the criminal charges resulting in the forfeiture shall order the destruction of such device or record. If the district attorney general or law enforcement agency does not believe that a gambling device or record should be destroyed in a particular case, the district attorney general shall petition the court for an alternate disposition of such record or device. If the court finds that the proposed alternate disposition reasonably ensures that the device will not be used in an unlawful manner in this state, the court may grant such petition and order the disposition of the device or record in accordance with the petition.

(c) Possession of a gambling device or record is a Class B misdemeanor.

[Acts 1989, ch. 591, § 1; 1993, ch. 265, § 1; 1994, ch. 856, § 1.]

39-17-506. Lotteries, chain letters and pyramid clubs.

(a) A person commits an offense who knowingly makes or aids in the making of any lottery. However, a person who owns or possesses in this state a lottery ticket originating from a state in which a lottery is lawful does not make or aid in the making of a lottery as prohibited by this section, if such ticket is not owned or possessed for the purpose of resale.

(b) For the purposes of this section, "making a lottery" includes the organization of, membership in, or solicitation of persons for membership in any chain letter club, pyramid club, or other group organized under any plan whereby anything of value to be given by members thereof is to be given to any other member thereof, which plan includes any provision for the increase in membership through a chain process of new members securing other new members and thereby advancing themselves in the group to a position where such members in turn receive things of value from other members.

(c) An offense under this section is:

39-17-507. Customer referral rebates unlawful.

(a) With respect to a consumer sale, consumer credit sale or consumer lease, the seller or lessor may not give or offer to give a rebate or discount or otherwise pay or offer to pay value to a buyer or lessee as an inducement for a sale or lease in consideration of the buyer or lessee referring or giving to the seller or lessor the names of prospective customers or lessees, or otherwise aiding the seller or lessor in making a sale or lease to another person, if the earning of the rebate, discount, commission or other value is contingent upon the occurrence of an event subsequent to the time the buyer or lessee agrees to buy or lease.

(b) If a buyer or lessee is induced by a violation of this section to enter into a consumer sale, consumer credit sale or consumer lease, then such transaction is hereby declared to be a lottery and the agreement is unenforceable by the seller or lessor, and the buyer or lessee, at the buyer's or lessee's option, may rescind the agreement or retain the goods delivered and the benefits of any services performed, without any obligation to pay for them.

(c) Any person offering to sell or lease goods or services in violation of this section commits a Class C misdemeanor.

39-17-508. Premiums at fairs.

It is lawful and not in violation of this part for a person, upon complying with the rules of public fairs, to enter and contend for any and all such premiums as may be offered at such fairs.

[Acts 1989, ch. 591, § 1.]

39-17-509. Preemption.

The general assembly, by enacting this part, intends to preempt any other regulation of the area covered by this part. No governmental subdivision or agency may enact or enforce a law that regulates or makes any conduct in the area covered by this part an offense, a violation, or the subject of a criminal or civil penalty or sanction of any kind.

TITLE 40. CRIMINAL PROCEDURE

CHAPTER 2. LIMITATION OF PROSECUTIONS

40-2-102. Misdemeanors.

Except as provided in § [62-18-120\(g\)](#), all prosecutions for misdemeanors shall be commenced within twelve (12) months next after the offense has been committed, except gaming, which shall be commenced within six (6) months.

CHAPTER 12. GRAND JURY PROCEEDINGS

PART 2. INVESTIGATIVE JURIES

40-12-201. Use of investigative grand jury.

(a) Notwithstanding any other provision of law to the contrary, whenever a district attorney general, within such district attorney general's respective jurisdiction, or the attorney general and reporter has reason to

believe that criminal activity involving a violation of or a conspiracy to violate:

- (1) [Section 39-14-903](#), relating to money laundering;
 - (2) [Sections 39-17-902\(b\)](#), 39-17-911 and 39-17-1005, relating to the distribution of certain materials to minors or the use of a minor for obscene purposes;
 - (3) [Section 39-17-417](#), relating to controlled substances;
 - (4) [Sections 39-16-401 - 39-16-405](#), relating to misconduct involving public officials and employees;
 - (5) [Sections 39-16-101 - 39-16-108](#), relating to bribery;
 - (6) [Section 39-12-204](#), relating to racketeer influenced and corrupt organizations;
 - (7) [Sections 39-17-501 - /sdCGI-BIN/om_isapi.dll?clientID=1934&hitsperheading=on&infobase=tncode.NFO&jump=39-17-507&softpage=Document - JUMPDEST 39-17-50739-17-507](#), relating to gambling; or
 - (8) [Sections 39-16-501 - 39-16-507](#), relating to interference with government operations;
- has occurred, the district attorney general or the attorney general and reporter may apply to a committee comprised of two (2) members of the district attorneys general conference and the attorney general and reporter for consent to file a petition to have an investigative grand jury convened to consider the matters specified in the application.
- (b) The attorney general and reporter shall appoint a district attorney general from each grand division to serve as potential members of such committee and shall notify the executive director of the district attorneys general conference of such appointments.
 - (c) The attorney general and reporter shall reappoint such district attorneys general as from time to time may be necessary.
 - (d) (1) When an application for an investigative grand jury is made by the attorney general and reporter pursuant to this part, such executive director shall designate one (1) or more of the district attorneys general appointed by the attorney general and reporter to serve on the committee.
(2) If such application is made by a district attorney general, the executive director shall designate either two (2) of the district attorneys general appointed by the attorney general and reporter to serve on the committee or shall designate one (1) of such district attorneys general and the district attorney general making the application.
 - (e) (1) The district attorney general or district attorneys general so designated to serve on the committee shall not reside in the same grand division as the county wherein the grand jury would be seated.
(2) In the case where an application is filed by the attorney general and reporter, the district attorney general for the district wherein the criminal activity is alleged to have occurred shall be one (1) of the two (2) members of the district attorneys general conference serving on the committee.
 - (f) The application shall be in writing, shall specify the crimes to be investigated, any persons believed to have knowledge of the crimes to be investigated, and the basis of the district attorney general's or attorney general and reporter's knowledge of the matters set forth in the application.
 - (g) The application shall be filed at the office of the attorney general and reporter in Nashville.

CHAPTER 13. INDICTMENTS

PART 1. GENERAL PROVISIONS

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:

- (1) Upon a presentment;
- (2) Upon an inquest of willfull homicide or murder;
- (3) Upon a recognizance to answer for a breach of the peace, or other inferior offense, committed in the presence of, and taken notice of by, any judge from the judge's own view;

- (4) Upon a charge of gaming;
- (5) Upon a charge of drawing a lottery or vending lottery tickets;
- (6) Upon a charge of keeping a billiard table without license;
- (7) Upon a charge of violation of graves;
- (8) Upon a charge against a county legislative body or a county executive for failing to provide safe and comfortable prisons;
- (9) Upon an order of the circuit or criminal court to file an indictment, officially, which may be made when it appears to the court that an indictable offense has been committed, and that no one will be prosecutor;
- (10) Upon information made to the district attorney general by a judge of the court of general sessions, upon the judge's own knowledge, of an indictable offense, committed during the sitting of the court;
- (11) Upon a report of the clerk of the chancery court that an executor, administrator or guardian has neglected or refused, for thirty (30) days after a subpoena has been served, to appear before the clerk and settle the accounts;
- (12) Upon a charge of violating the laws to suppress the use, importation or sale of prohibited weapons;
- (13) Upon a charge of violating the laws against illegal voting, and to preserve purity of elections;
- (14) Against the clerk of any court who knowingly and willfully, with intent and purpose to affect the result of a case depending or decided in the clerk's court, makes a false entry, or fails to make an entry directed by law, or makes an imperfect transcript of the proceedings had in the clerk's court, and being in the clerk's office;
- (15) Upon a charge of violating the laws pertaining to intoxicating liquors;
- (16) Upon a charge of violating the laws to suppress private banking;
- (17) Upon a charge of cutting, writing upon, defacing, disfiguring or damaging public buildings;
- (18) Upon a charge against a clerk of converting to the clerk's own use, investing, using or lending money, property or effects in the clerk's custody, to be paid or delivered, according to law or order of court, to any party, witness, officer or other person;
- (19) Upon an indictment for sedition, conspiracies and riots;
- (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;
- (22) Upon an indictment against a sheriff for permitting a prisoner in the sheriff's custody to be put to death by violence;
- (23) Upon a charge of trespass upon lands or injury to or removal of property in violation of § [39-14-408](#);
- (24) Upon a charge of child abuse in violation of § [39-15-401](#) or any other offense against the person in which a child is the victim; and
- (25) Any other cases provided by law.

PART 2. FORM AND SUFFICIENCY

40-13-217. Alleging gaming.

- (a) All laws made for the prevention, discouraging or suppression of gaming shall be construed as remedial and not penal statutes, and no presentment or indictment in such case shall be quashed for want of form.
- (b) In presentments and indictments for gaming, it is sufficient to charge the general name of the game at which the defendant or defendants played, without setting forth and describing with or against whom they may have bet or played.
- (c) In prosecutions for keeping any gaming table or device under § [39-17-505](#), it is sufficient to charge that the defendant kept or exhibited, or was interested or concerned in keeping or exhibiting, a gaming table or device for gaming, without describing the same more particularly, or alleging in what manner the defendant was concerned in the keeping or exhibiting, or alleging or proving that any money was bet at such table or device.

CHAPTER 35. CRIMINAL SENTENCING REFORM ACT OF 1989

PART I. GENERAL PROVISIONS

40-35-118. 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:

Code Section Offense Class

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 substance 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 junior 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 area 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.

[Acts 1989, ch. 591, § 6; 1990, ch. 1030, § 31; 1992, ch. 655, § 1.]

TITLE 67. TAXES AND LICENSES

CHAPTER 4. PRIVILEGE AND EXCISE TAXES

PART 5. GENERAL REVENUE LAW – PRIVILEGES TAXABLE BY STATE AND LOCAL GOVERNMENTS

67-4-507. Coin-operated amusement devices.

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

(1) "Coin-operated amusement device" or "device" means any coin or token operated game, machine or device which, as a result of depositing a coin, token or other object, automatically or by or through some mechanical or electronic operation involving skill, chance, or a combination thereof, affords music, amusement, or entertainment of some character without vending any merchandise. "Coin-operated amusement device" includes, but is not limited to, the following: coin-operated pool tables, juke boxes, video games which may require the operation of buttons, sticks, knobs or the like, video amusement machines, video card games and video educational devices. Such "coin-operated amusement device" does not include any bona fide merchandise vending machines as defined in § [67-4-506](#), or any device operated for the purpose of unlawful gambling, or a pinball machine as defined in § 39-6-631 [repealed], or an individually owned amusement device located in a private dwelling and intended for the exclusive private enjoyment of the owner and the owner's guests and not used or operated for gain, profit or other commercial purpose; provided, that for purposes of this section, such machines shall be categorized as follows:

(A) "Class I coin-operated amusement device" means any coin-operated video game designed and manufactured for bona fide amusement purposes which contains a free play feature that entitles the player to replay the game or device at no additional cost; and

(B) "Class II coin-operated amusement device" means any coin-operated game or device that is not defined as a Class I amusement device by the provisions of subdivision (a)(1)(A);

(2) "Commissioner" means the commissioner of revenue or the commissioner's designee;

(3) "Department" means the department of revenue;

(4) "Owner" means the person, corporation or other legal entity who holds legal title to a coin-operated amusement device as defined herein; and

(5) "Token" means chips, checks or other articles which may be used to operate a coin-operated amusement device.

(b) (1) (A) The owner of any Class I coin-operated amusement device shall pay to the department a tax of

three hundred fifty dollars (\$350) for each device owned for the privilege of operating, leasing, subleasing or consigning such device in this state;

(B) There shall be no tax for the privilege of operating, leasing, subleasing or consigning a Class II coin-operated amusement device in this state;

(C) The state tax imposed by this subsection shall be the exclusive tax levied on coin-operated amusement devices. No local government may impose any additional tax, fee, or assessment of any kind on such machines. Nothing contained herein shall affect any person's liability for state or local sales or use tax which is imposed pursuant to chapter 6 of this title for the privilege of selling or using such devices. The receipts from Class I and Class II devices shall not be the basis of tax under chapter 6 of this title.

(2) The tax hereby imposed shall be administered and collected on an annual basis for the privileges described above for the year beginning on July 1 and ending on the following June 30.

(3) The tax shall be paid and a return filed on or before July 20 of each year, for the privileges described above for the year, or any part thereof, in which any such privilege is exercised.

(4) Owners of coin-operated amusement devices who first exercise the taxable privilege with any such device after the beginning of any tax year shall be liable for tax for that year at the time any such device is first used in exercising the taxable privilege at the rate as provided below:

(A) If the privilege is first exercised July 1 through September 30 of any tax year - \$100;

(B) If the privilege is first exercised October 1 through December 31 of any tax year - \$75.00;

(C) If the privilege is first exercised January 1 through March 31 of any tax year - \$50.00; or

(D) If the privilege is first exercised April 1 through June 30 of any tax year - \$25.00.

(c) Upon receipt of the tax and return required, the commissioner shall issue tax stamps to the owner for each device for which payment is made. No tax stamp shall be issued for a Class I device until the owner has furnished the commissioner with the serial number of the device upon which the stamp is to be affixed. No tax stamp may be placed on or transferred to a Class I device other than the one for which such stamp was issued. Such stamp shall display the year of validity and be color coded or by some other method easily identifiable to persons enforcing this section. This tax stamp shall constitute proof of payment of the tax imposed, and all devices in use or intended for use which require a tax stamp shall have such stamp affixed to such device. If a Class II device becomes inoperable, is sold, or is stored or otherwise disposed of in such a manner that it is no longer in use or intended for use, the owner of such device may remove the stamp from such device and place it on another device the owner owns that is subject to the tax imposed by this section. This subsection shall not permit the transfer of tax stamps from one owner to another. Any device which is in use or intended for use that does not have a current tax stamp affixed to it shall be subject to confiscation as contraband.

(d) (1) Any person desiring to exercise the privilege taxed herein may pay the department, in lieu of the tax levied in subdivision (b)(1), a special occasion tax of ten dollars (\$10.00) for each device owned. Upon receipt of the special occasion tax by the department, the owner shall receive a special occasion stamp covering the privilege of operating, leasing, subleasing or consigning such device for a period not to exceed thirty (30) continuous calendar days from the date of issue of the stamp. The owner of any coin-operated amusement device, by making application for and receiving from the department a special occasion stamp, is precluded from applying for or receiving any other special occasion stamp during the remainder of that privilege tax year.

(2) Upon receipt of the tax and return required, the commissioner shall issue a special occasion tax stamp or license to the owner for each device for which payment is made. Any device which is in use or intended for use that does not have a special occasion tax stamp or license shall be subject to confiscation as contraband.

(3) The commissioner is authorized to promulgate regulations, establish time requirements for payment of the tax and to prescribe the forms for returns necessary to implement the provisions of this subsection.

(e) (1) The commissioner is authorized to administer and collect the taxes provided for herein, pursuant to the provisions of parts 2 and 3 of this chapter and chapter 1, part 14 of this title.

(2) The commissioner is further authorized to prescribe the forms for returns required to be filed by this section and to require such information on the return as, in the commissioner's discretion, may be necessary for the administration of this tax.

(3) Every person subject to the tax imposed by this section shall keep records, render statements or returns under oath, and comply with such rules and regulations as the commissioner may, from time to time, require.

(f) Nothing in this section, including payment of the tax provided for herein, shall be construed to make legal an otherwise illegal device, or to authorize or permit gambling on any device whatsoever.

(g) It is the express intention of this general assembly that nothing in this section shall be construed as empowering or authorizing the levying of or collection of more than one (1) tax of one hundred dollars (\$100) per amusement device described as a cylindrical mass shaped like a castle with a seam running down opposite sides of the body, whereby the machine may be opened for servicing and four (4) telephone receivers with corresponding money slots for use commonly referred to and labeled as a "Story Castle."