

Selected Statutes relating to Commercial Driver Licenses

I. Reporting of Convictions

55-50-409. Notification of traffic violations -- Furnishing driving record information.

(a) This section shall apply to the following types of convictions:

(1) The conviction of any resident or nonresident holder of a commercial driver license of any violation of state law or local ordinance relating to motor vehicle traffic control, other than parking violations, in any vehicle; and

(2) The conviction of any resident or nonresident holder of a non-commercial driver license of any violation of state law or local ordinance relating to motor vehicle traffic control, other than parking violations, in a commercial motor vehicle.

(b) Within five (5) days after receiving a report of a conviction as defined by subsection (a), the department shall notify the driver licensing authority in the licensing state of the conviction, and the commercial driver license information system.

(c)

(1) Within five (5) days after the date of a conviction as defined by subsection (a), the clerk of the court of jurisdiction shall notify the department of the conviction.

(2) The notice shall contain:

(A) Driver's first name, middle name or middle initial, last name, and residence address;

(B) Driver's date of birth;

(C) Driver license number, class of license, and state of issuance;

(D) A statement as to whether or not the license is a commercial driver license;

(E) The license plate number, year, and state of issuance of the vehicle involved;

(F) A statement as to whether or not the offense was committed in a commercial motor vehicle;

(G) A statement as to whether or not the vehicle was transporting hazardous materials requiring placards;

(H) A statement as to whether or not the vehicle could transport sixteen (16) or more passengers;

(I) The date the offense occurred;

(J) The offense the driver was charged with;

(K) The date of the conviction;

(L) The violation of which the person was convicted;

(M) The plea, the judgment, or whether bail was forfeited;

- (N) The number of the offense (e.g., 1st offense, 2nd offense);
- (O) The blood alcohol level of the person, if convicted of a violation of § 39-13-106, § 39-13-213, § 55-10-401 or § 55-50-405;
- (P) The amount of any fine or costs assessed for the violation;
- (Q) Whether a driver education or improvement course was completed and the date of completion of the course, if eligible under § 55-10-301;
- (R) The name of the arresting agency;
- (S) The name of the county and court in which the conviction occurred; and
- (T) Whether or not there was in effect at the time of the violation an automobile liability policy or bond with respect to the operation of the motor vehicle involved.

(d) Notwithstanding any other law in this state, the department shall furnish full information regarding the driving record of any person to:

- (1) The driver license administrator of any other state, or province or territory of Canada, requesting that information;
- (2) The commercial driver license information system; and
- (3) Any employer or prospective employer upon request and payment of a fee of five dollars (\$5.00).

HISTORY: Acts 1937, ch. 90, § 5; impl. am. Acts 1939, ch. 205, §§ 2, 3; C. Supp. 1950, § 2715.13 (Williams, § 2715.18); Acts 1973, ch. 224, §§ 1, 2; T.C.A. (orig. ed.), § 59-706; Acts 1988, ch. 584, § 6; T.C.A., §§ 55-7-106, 55-7-409; Acts 2010, ch. 1037, § 8.

55-10-306. Record of traffic cases -- Report of convictions to department.

(a) Every magistrate or judge of a court shall keep or cause to be kept a record of every traffic complaint, warrant, traffic citation or other legal form of traffic charge deposited with or presented to the court or the traffic violations bureau of its jurisdiction, and shall keep a record of every official action by the court or the traffic violations bureau of its jurisdiction in reference thereto, including, but not limited to, a record of every conviction, forfeiture of bail, judgment of acquittal and the amount of fine or forfeiture resulting from every traffic complaint, warrant, or citation deposited with or presented to the court or traffic violations bureau.

(b) (1) Except as provided by § 55-50-409, within thirty (30) days after the conviction or forfeiture of bail of a person upon a charge of violating any provision of chapter 8, parts 1-5 of this chapter and § 55-12-139 or other law regulating the operation of vehicles on highways, every such magistrate or judge of the court or clerk of the court of record in which the conviction was had or bail was forfeited shall prepare and immediately forward to the department an abstract of the record of the court covering the case in which the person was so convicted or forfeited bail, which abstract must be certified by the person so required to prepare the same to be true and correct. Report need not be made of any conviction involving the illegal parking or standing of a vehicle.

(2) Upon receipt of the fee of sixty-five dollars (\$65.00) as specified in § 55-12-129, the commissioner shall make a payment of ten dollars (\$10.00) for the furnishing of a completed report of a conviction resulting in suspension or revocation, including forfeiture of bail not vacated or payment of a fine or penalty, for one (1) or more of the offenses of reckless driving, driving while intoxicated or

drugged, drag racing, driving while unlicensed, driving on a revoked or suspended license, driving an unregistered vehicle, driving a vehicle with revoked registration, failing to stop after a traffic accident, or vehicular homicide.

(c) The abstract must be made on a form furnished by the commissioner and shall include the following information:

- (1) Driver's first name, middle name or middle initial, last name, and residence address;
- (2) Driver's date of birth;
- (3) Driver license number, class of license, and state of issuance;
- (4) A statement as to whether or not the license is a commercial driver license;
- (5) The license plate number, year, and state of issuance of the vehicle involved;
- (6) A statement as to whether or not the offense was committed in a commercial motor vehicle;
- (7) A statement as to whether or not the vehicle was transporting hazardous materials requiring placards;
- (8) A statement as to whether or not the vehicle could transport sixteen (16) or more passengers;
- (9) The date the offense occurred;
- (10) The offense the driver was charged with;
- (11) The date of the conviction;
- (12) The violation of which the person was convicted;
- (13) The plea, the judgment, or whether bail was forfeited;
- (14) The number of the offense (e.g., 1st offense, 2nd offense);
- (15) The blood alcohol level of the person, if convicted of a violation of § 39-13-106, § 39-13-213, § 55-10-401 or § 55-50-405;
- (16) The amount of any fine or costs assessed for the violation;
- (17) Whether a driver education or improvement course was completed and the date of completion of the course, if eligible under § 55-10-301;
- (18) The name of the arresting agency;
- (19) The name of the county and court in which the conviction occurred; and
- (20) Whether or not there was in effect at the time of the violation an automobile liability policy or bond with respect to the operation of the motor vehicle involved.

(d) Every court of record shall also forward a like report to the department upon the conviction of any person of manslaughter or other felony in the commission of which a vehicle was used.

(e) The department shall keep all abstracts received under this section at its main office and the same shall be open to public inspection during reasonable business hours.

(f)

(1) The administrative office of the courts, in conjunction with the department of safety, shall, on an annual basis, provide information and training to the clerks of court concerning the importance and necessity of preparing and forwarding to the department of safety the abstract forms for the convictions required by this section.

(2) The training and information required by this subsection (f) is not required to take the same form every year; provided, that the information is conveyed in a manner designed to be viewed, understood and retained by the clerks. The information may be conveyed one year by a training session at the annual court clerks conference and another year may be conveyed by mailing, e-mail or telephone.

(3) Any such training shall also include the effect and consequences of any changes in the abstract reporting requirements that may result from changes in state and federal law.

(4) The training and information distribution required by this subsection (f) shall apply to all clerks of court having original jurisdiction over traffic offenses, including municipal court clerks.

HISTORY: Acts 1955, ch. 329, § 107; 1959, ch. 286, § 1; 1976, ch. 613, § 1; impl. am. Acts 1979, ch. 68, §§ 2, 3; T.C.A., § 59-1027; Acts 1986, ch. 842, § 11; 2001, ch. 292, § 5; 2005, ch. 120, § 1; 2008, ch. 1181, § 2; 2010, ch. 1037, §§ 2, 3.

II. Prohibition on Masking Convictions for Commercial License Holders/Commercial Motor Vehicle Operators

55-10-301. Penalty for violations of chapters 8 and 9 and parts 1-5 of this chapter.

(a) Any person violating any of the provisions of chapters 8 and 9 of this title and parts 1-5 of this chapter where a penalty is not specifically prescribed commits a Class C misdemeanor.

(b)

(1) Any person violating any of the provisions of chapters 8 and 9 of this title and parts 1-5 of this chapter may be required, at the discretion of the court, to attend a driver education course approved by the department of safety in addition to or in lieu of any portion of other penalty imposed; provided, that the course is approved by the department, it may be operated and conducted by a:

(A) County, municipality or other entity of local government;

(B) Nonprofit organization as defined by the Internal Revenue Code, 26 U.S.C. § 501(c)(3); or

(C) Private entity, provided the entity meets all of the requirements of § 40-35-302(g) for private entities providing misdemeanor probation supervision services.

(2) A reasonable fee between fifty dollars (\$50.00) and one hundred seventy-five dollars (\$175) may be assessed for the driver education or driver improvement course; provided, that no one shall be refused admittance for inability to pay. This fee shall apply only to driver improvement courses that may be required pursuant to this section, and shall not apply to any program offered pursuant to the provisions of title 49, chapter 1, or to any other driving instruction school.

(3) By operating a driver education or improvement course pursuant to this subsection (b), the entity operating or conducting the course consents to the inspection of all records concerning the course by the department of safety; provided, that inspection made pursuant to this subdivision (b)(3) shall not preclude inspection of any records pursuant to any other provision of law.

(4) Each court clerk shall provide a list of approved entities in the county to any person ordered to attend a driver education or improvement course.

(5) Upon certification to the court clerk that a court ordered driver education or improvement course has been completed, the court clerk shall report the completion to the department of safety. The report shall be accomplished on the abstract of record of the court referenced in § 55-10-306.

(c) Subsection (b) shall not apply to any person who holds a Class A, B, or C license and is charged with any violation, except a parking violation, in any type of motor vehicle.

(d) Subsection (b) shall not apply to any person who holds any class of driver license and who is charged with any violation, except a parking violation, while operating a commercial motor vehicle.

HISTORY: Acts 1931, ch. 82, § 16; 1937, ch. 245, § 6; C. Supp. 1950, § 2700.17 (Williams, § 2696); Acts 1955, ch. 329, § 103; 1971, ch. 234, § 1; 1975, ch. 162, § 1; T.C.A. (orig. ed.), § 59-1023; Acts 1981, ch. 91, §§ 1, 2; 1989, ch. 591, § 113; 1990, ch. 869, § 1; 1995, ch. 178, § 1; 2001, ch. 186, § 1; 2005, ch. 235, § 1; 2008, ch. 1181, § 1; 2009, ch. 321, § 1.

55-50-102. Chapter definitions.

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

...

(11) "Commercial driver license" means a license issued by the department in accordance with the standards contained in 49 CFR part 383 to an individual that authorizes the individual to operate a class of commercial motor vehicle. A commercial driver certificate accompanied by a valid driver license shall be considered a valid commercial driver license;

(12)

(A) "Commercial motor vehicle" means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle:

(i) Has a gross vehicle weight rating or gross combination weight rating of twenty-six thousand one (26,001) or more pounds;

(ii) Is designed to transport more than fifteen (15) passengers, including the driver; or

(iii) Is of any size and is used in the transportation of hazardous materials, as defined in this section;

(B) However, the following vehicles and groups of vehicles shall not be considered commercial motor vehicles for the purposes of this chapter:

(i) Vehicles that are controlled and operated by a farmer or nursery worker that are used to transport either agricultural products, farm machinery, or farm supplies to or from a farm or nursery, and are not used in the operations of a common or contract motor carrier and are used within one hundred fifty (150) miles of the person's farm or nursery;

(ii) Vehicles designed and used solely as emergency vehicles that are necessary for the preservation of life or property or the execution of emergency governmental functions performed under emergency conditions and not subject to normal traffic regulation. This exemption shall apply to vehicles operated by paid or non-paid personnel;

(iii) Vehicles operated for military purposes by active duty military personnel; members of the military reserves; members of the national guard on active duty, including personnel on full-

time national guard duty, personnel on part-time national guard training, and national guard military technicians (civilians who are required to wear military uniforms); and active duty United States coast guard personnel. This exception is not applicable to United States reserve technicians;

(iv) Vehicles designed and used primarily as recreational vehicles as defined in this section; and

(v) Vehicles leased strictly and exclusively to transport personal possessions or family members for nonbusiness purposes;

...

(15) "Conviction" means an unvacated adjudication of guilt, or a determination that a person has violated or failed to comply with the law in a court of original jurisdiction or by an authorized administrative tribunal, an unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court, a plea of guilty or nolo contendere accepted by the court, the payment of a fine or court cost, or violation of a condition of release without bail, regardless of whether or not the penalty is rebated, suspended or probated;

HISTORY: Acts 1937, ch. 90, § 1; 1939, ch. 205, § 2; impl. am. Acts 1939, ch. 205, §§ 2, 3; C. Supp. 1950, § 2715.9 (Williams, § 2715.14); Acts 1955, ch. 114, § 1; 1957, ch. 241, § 1; 1977, ch. 189, § 1; 1979, ch. 247, § 4; T.C.A. (orig. ed.), § 59-702; Acts 1986, ch. 804, § 2; 1987, ch. 446, § 10; 1988, ch. 584, § 2; T.C.A., § 55-7-102; Acts 1989, ch. 60, §§ 2-4; 1990, ch. 907, § 1; 1996, ch. 799, §§ 1-3; 1997, ch. 375, § 1; 1999, ch. 351, § 1; 2000, ch. 606, § 5; 2002, ch. 747, §§ 8, 9; 2004, ch. 778, § 1; 2005, ch. 235, § 2; 2007, ch. 194, §§ 1, 2; 2008, ch. 959, §§ 7, 8; 2009, ch. 321, §§ 3-14.

III. Driving Under the Influence in a Commercial Motor Vehicle

55-50-408. Driving under the influence.

For purposes of this chapter and § 55-10-401, any person who drives, operates or exercises physical control of a commercial motor vehicle with a blood alcohol concentration of four hundredths of one percent (0.04%) or more commits the offense of driving while under the influence of alcohol, in violation of § 55-50-405.

HISTORY: Acts 1937, ch. 90, § 5; impl. am. Acts 1939, ch. 205, §§ 2, 3; C. Supp. 1950, § 2715.13 (Williams, § 2715.18); Acts 1973, ch. 224, §§ 1, 2; T.C.A. (orig. ed.), § 59-706; Acts 1988, ch. 584, § 6; T.C.A., §§ 55-7-106, 55-7-408; Acts 2009, ch. 321, § 27.

IV. Miscellaneous

55-50-405. Violations -- Penalties -- Driving under the influence.

(a)

(1) The commissioner shall suspend for at least one (1) year, a commercial motor vehicle operator who is found to have committed a first violation of:

(A) Driving a commercial motor vehicle under the influence of alcohol or a controlled substance, or with a blood alcohol concentration (BAC) of four-hundredths of one percent (0.04 %) or greater;

(B) Leaving the scene of an accident while driving a commercial motor vehicle; or

(C) Operating a commercial motor vehicle in the commission of a felony, except a controlled substance felony as described in subdivision (a)(4);

(2) If the operator commits any of the violations while carrying hazardous materials, the suspension shall be for a period of three (3) years;

(3) The commissioner shall suspend for life, or a period not less than ten (10) years, according to department of transportation regulations, a commercial motor vehicle operator who is found to have committed a second violation of:

(A) Driving a commercial motor vehicle under the influence of alcohol with a BAC of point zero four (.04) or greater, or other controlled substance;

(B) Leaving the scene of an accident while driving a commercial motor vehicle; or

(C) Using a commercial motor vehicle in the commission of a felony;

(4) The commissioner shall suspend for life, a commercial motor vehicle operator who is found to have used a commercial motor vehicle in the commission of a felony involving the manufacture, distribution, or dispensing of a controlled substance, or possession with intent to distribute;

(5) The commissioner shall suspend for a period of not less than sixty (60) days each person who in a three-year period has committed two (2) serious traffic violations involving a commercial motor vehicle, and for not less than one hundred twenty (120) days each person who has committed three (3) serious traffic violations in a three-year period;

(6)

(A) Any person violating subdivisions (a)(1), (2), and (3) shall, upon conviction, be punished pursuant to the requirements of § 55-10-403, except for provision of license suspension, which shall be in accordance with this subsection (a); and

(B) Any person violating subdivision (a)(4) shall, upon conviction, be fined not less than two thousand five hundred dollars (\$2,500), and be imprisoned for not less than ninety (90) days nor more than one (1) year;

(7)

(A) The commissioner shall suspend the driver license of a driver who is convicted of violating an out-of-service order while driving a commercial motor vehicle for one hundred eighty (180) days if the driver is convicted of a first violation of an out-of-service order.

(B) The commissioner shall suspend the driver license of a driver who is convicted of violating an out-of-service order while driving a commercial motor vehicle for two (2) years if, during any ten-year period, the driver is convicted of two (2) violations of out-of-service orders in separate incidents.

(C) The commissioner shall suspend the driver license of a driver who is convicted of violating an out-of-service order while driving a commercial motor vehicle for three (3) years if, during any ten-year period, the driver is convicted of three (3) or more violations of out-of-service orders in separate incidents;

(8)

(A) The commissioner shall suspend the driver license for a period of one hundred eighty (180) days if a driver is convicted of violating an out-of-service order while driving a commercial motor vehicle while transporting hazardous materials required to be placarded under the Hazardous Materials Transportation Act, compiled in U.S.C. § 5101 et seq., , or while operating a motor vehicle designed to transport more than fifteen (15) passengers including the driver.

(B) The commissioner shall suspend the driver license of a driver who is convicted of violating an out-of-service order while driving a commercial motor vehicle for a period of three (3) years if the driver is convicted of any subsequent violation of out-of-service orders, in separate incidents, while transporting hazardous materials required to be placarded under the Hazardous Materials Transportation Act, compiled in U.S.C. § 5101 et seq., or while operating a commercial motor vehicle designed to transport more than fifteen (15) passengers, including the driver;

(9) The commissioner shall suspend the driver license of a commercial motor vehicle operator who is convicted of violating a railroad highway grade crossing law or regulation while operating a commercial motor vehicle, for not less than sixty (60) days for a first conviction; not less than one hundred twenty (120) days for a second conviction, if the violation occurred within a three (3) year period from the first violation; and one (1) year for a third conviction, if the violation occurred within three (3) years from the first violation, for the following offenses:

(A) For drivers who are not required to always stop pursuant to § 55-8-147, failing to slow down and check the railroad highway grade crossing to be sure it is clear of an approaching train;

(B) For drivers who are not required to always stop pursuant to § 55-8-147, failing to stop before reaching the railroad highway grade crossing if the tracks are not clear;

(C) A conviction of § 55-8-147;

(D) Failure to have sufficient space to drive completely through the railroad highway grade crossing without stopping;

(E) Failure to obey a traffic control device or the directions of an enforcement official at the railroad highway grade crossing; or

(F) Failure to negotiate a railroad highway grade crossing because of insufficient undercarriage clearance; and

(10)

(A) A driver who is convicted of violating an out-of-service order shall be subject to a civil penalty of not less than two thousand five hundred dollars (\$2,500) for a first conviction and not less than five thousand dollars (\$5,000) for a second or subsequent conviction, in addition to any disqualification or other penalty which may be imposed by state or federal law;

(B) The civil penalty shall be assessed by the department after receiving notification of the conviction;

(C) Funds received pursuant to this section shall become expendable receipts of the department.

(b) Any person violating § 55-50-401 shall, upon conviction, be fined not less than two hundred fifty dollars (\$250) nor more than one thousand dollars (\$1,000), and be imprisoned for not less than ten (10) days nor more than ninety (90) days.

(c) Any person violating § 55-50-402 shall, upon conviction, be fined not less than two hundred fifty dollars (\$250) nor more than five hundred dollars (\$500), and imprisoned for not less than two (2) days nor more than thirty (30) days.

(d) Any person violating § 55-50-403 shall, upon conviction, be fined not more than five hundred dollars (\$500) and also be subject to civil penalties pursuant to 49 CFR 383.53(b)(2).

(e) Any person violating § 55-50-404 shall, upon conviction of a first offense, be fined not less than two hundred fifty dollars (\$250) nor more than one thousand dollars (\$1,000), and be imprisoned for not less than thirty (30) days nor more than ninety (90) days; and upon conviction of a second or subsequent offense, be fined not less than one thousand dollars (\$1,000) nor more than two thousand five hundred dollars (\$2,500) and be imprisoned for not less than ninety (90) days nor more than one (1) year.

(f) Notwithstanding any other provision of this part to the contrary, any person who violates § 55-50-404 due to failure to observe the one hundred fifty-mile restriction imposed by § 55-50-102(12)(B)(i) shall be punished only by a fine of ten dollars (\$10.00). No court costs or litigation taxes may be collected or assessed on the violations.

(g) Notwithstanding any other provision in this title, the privilege of operating a commercial motor vehicle shall be subject to the provisions of 49 CFR parts 383 and 384 relative to the disqualification of drivers.

(h) Any person charged with driving a commercial motor vehicle without a commercial driver license in the driver's possession, may, on or before the court date, submit evidence of compliance at the time of the violation. If the court is satisfied that compliance was in effect at the time of the violation, the charge shall be dismissed without cost to the defendant and no litigation tax shall be due or collected, notwithstanding any provision of law to the contrary.

(i) Pursuant to 49 CFR 350.341, no provision of law relative to commercial driver licenses, including, but not limited to, physical qualification standards and records to be kept by drivers, shall be applicable to drivers of motor vehicles that have a gross vehicle weight rating or gross combination weight rating of twenty-six thousand pounds (26,000 lbs.) or less that are operated in intrastate commerce to transport property, and that do not transport:

- (1) Hazardous materials required to be placarded;
- (2) Sixteen (16) or more persons, including the driver; or
- (3) Passengers for hire.

HISTORY: Acts 1937, ch. 90, § 5; impl. am. Acts 1939, ch. 205, §§ 2, 3; C. Supp. 1950, § 2715.13 (Williams, § 2715.18); Acts 1973, ch. 224, §§ 1, 2; T.C.A. (orig. ed.), § 59-706; Acts 1988, ch. 584, § 6; T.C.A., §§ 55-7-106, 55-7-405; Acts 1996, ch. 799, §§ 4, 5; 2001, ch. 110, § 3; 2005, ch. 235, §§ 5, 6, 8; 2009, ch. 321, §§ 21-24; 2010, ch. 1037, §§ 6, 7.

V. Selected Relevant Federal Regulations

- 49 C.F.R. § 383.51 - Disqualification of Drivers
- 49 C.F.R. § 384.209 - Notification of Traffic Violations
- 49 C.F.R. § 384.226 - Prohibition on Masking Convictions
- 49 C.F.R. § 384.401 - Withholding of Funds Based on Noncompliance

Selected Tennessee and Federal Statutes on Firearms and Handgun Carry Permits

Tennessee Laws

39-17-1307. Unlawful carrying or possession of a weapon.

(a)

(1) A person commits an offense who carries, with the intent to go armed, a firearm or a club.

(2)

(A) The first violation of subdivision (a)(1) is a Class C misdemeanor, and, in addition to possible imprisonment as provided by law, may be punished by a fine not to exceed five hundred dollars (\$500).

(B) A second or subsequent violation of subdivision (a)(1) is a Class B misdemeanor.

(C) A violation of subdivision (a)(1) is a Class A misdemeanor if the person's carrying of a handgun occurred at a place open to the public where one (1) or more persons were present.

(b)

(1) A person commits an offense who unlawfully possesses a firearm, as defined in § 39-11-106, and:

(A) Has been convicted of a felony involving the use or attempted use of force, violence, or a deadly weapon; or

(B) Has been convicted of a felony drug offense.

(2) An offense under subdivision (b)(1)(A) is a Class C felony.

(3) An offense under subdivision (b)(1)(B) is a Class D felony.

(c)

(1) A person commits an offense who possesses a handgun and has been convicted of a felony.

(2) An offense under subdivision (c)(1) is a Class E felony.

(d)

(1) A person commits an offense who possesses a deadly weapon other than a firearm with the intent to employ it during the commission of, attempt to commit, or escape from a dangerous offense as defined in § 39-17-1324.

(2) A person commits an offense who possesses any deadly weapon with the intent to employ it during the commission of, attempt to commit, or escape from any offense not defined as a dangerous offense by § 39-17-1324.

(3)

(A) Except as provided in subdivision (d)(3)(B), a violation of this subsection (d) is a Class E felony.

(B) A violation of this subsection (d) is a Class E felony with a maximum fine of six thousand dollars (\$6,000), if the deadly weapon is a switchblade knife.

(e)

(1) It is an exception to the application of subsection (a) that a person is carrying or possessing a firearm or firearm ammunition in a motor vehicle if the person:

(A) Is not prohibited from possessing or receiving a firearm by 18 U.S.C. § 922(g) or purchasing a firearm by § 39-17-1316; and

(B) Is in lawful possession of the motor vehicle.

(2) As used in this subsection:

(A) "Motor vehicle" has the same meaning as defined in § 55-1-1 03.

(B) "Motor vehicle" does not include any motor vehicle that is:

(i) Owned or leased by a governmental or private entity that has adopted a written policy prohibiting firearms or ammunition not required for employment within such a motor vehicle; and

(ii) Provided by such entity to an employee for use during the course of employment.

[Underlined language amended by 2014 Public Chapter 870 and 2014 Public Chapter 647]

39-17-1316. Sales of dangerous weapons -- Certification of purchaser -- Exceptions -- Licensing of dealers -- Definitions.

(a)

(1) Any person appropriately licensed by the federal government may stock and sell firearms to persons desiring firearms; however, sales to persons who have been convicted of the offense of stalking, as prohibited by § 39-17-315, who are addicted to alcohol, who are ineligible to receive firearms under 18 U.S.C. § 922, or who have been judicially committed to a mental institution pursuant to title 33 or adjudicated as a mental defective are prohibited. For purposes of this subdivision (a)(1), the offense of violation of a protective order as prohibited by § 39-13-113 shall be considered a "misdemeanor crime of domestic violence" for purposes of 18 U.S.C. § 921.

(2) The provisions of this subsection (a) prohibiting the sale of a firearm to a person convicted of a felony shall not apply if:

(A) The person was pardoned for the offense;

(B) The conviction has been expunged or set aside; or

(C) The person's civil rights have been restored pursuant to title 40, chapter 29; and

(D) The person is not prohibited from possessing a firearm by the provisions of § 39-17-1307.

39-17-1321. Possession of handgun while under influence -- Penalty.

(a) Notwithstanding whether a person has a permit issued pursuant to § 39-17-1315 or § 39-17-1351, it is an offense for a person to possess a handgun while under the influence of alcohol or any controlled substance or controlled substance analogue.

(b) It is an offense for a person to possess a firearm if the person is both:

(1) Within the confines of an establishment open to the public where liquor, wine or other alcoholic beverages, as defined in § 57-3-101(a)(1)(A), or beer, as defined in § 57-6-102(1), are served for consumption on the premises; and

(2) Consuming any alcoholic beverage listed in subdivision (b)(1).

(c)

(1) A violation of this section is a Class A misdemeanor.

(2) In addition to the punishment authorized by subdivision (c)(1), if the violation is of subsection (a), occurs in an establishment described in subdivision (b)(1), and the person has a handgun permit issued pursuant to § 39-17-1351, such permit shall be suspended in accordance with § 39-17-1352 for a period of three (3) years.

39-17-1351. Handgun carry permits.

(a) The citizens of this state have a right to keep and bear arms for their common defense; but the general assembly has the power, by law, to regulate the wearing of arms with a view to prevent crime.

(b) Except as provided in subsection (r), any resident of Tennessee who is a United States citizen or permanent lawful resident, as defined by § 55-50-102, who has reached twenty-one (21) years of age, may apply to the department of safety for a handgun carry permit. If the applicant is not prohibited from purchasing or possessing a firearm in this state pursuant to § 39-17-1316 or § 39-17-1307(b), 18 U.S.C. § 922(g), or any other state or federal law, and the applicant otherwise meets all of the requirements of this section, the department shall issue a permit to the applicant.

(c) The application for a permit shall be on a standard form developed by the department. The application shall clearly state in bold face type directly above the signature line that an applicant who, with intent to deceive, makes any false statement on the application commits the felony offense of perjury pursuant to § 39-16-702. The following are eligibility requirements for obtaining a handgun carry permit and the application shall require the applicant to disclose and confirm compliance with, under oath, the following information concerning the applicant and the eligibility requirements:

(1) Full legal name and any aliases;

(2) Addresses for the last five (5) years;

(3) Date of birth;

(4) Social security number;

(5) Physical description (height, weight, race, sex, hair color and eye color);

(6) That the applicant has not been convicted of a criminal offense that is designated as a felony, or that is one of the disqualifying misdemeanors set out in subdivisions (c)(11), (c)(16), or (c)(18), with the

exception of any federal or state offenses pertaining to antitrust violations, unfair trade practices, restraints of trade or other similar offenses relating to the regulations of business practices;

(7) That the applicant is not currently under indictment or information for any criminal offense that is designated as a felony, or that is one of the disqualifying misdemeanors set out in subdivisions (c)(11), (c)(16), or (c)(18), with the exception of any federal or state offenses pertaining to antitrust violations, unfair trade practices, restraints of trade or other similar offenses relating to the regulations of business practices;

(8) That the applicant is not currently subject to any order of protection and, if so, the applicant shall provide a copy of the order;

(9) That the applicant is not a fugitive from justice;

(10) That the applicant is not an unlawful user of or addicted to alcohol, any controlled substance or controlled substance analogue, and the applicant has not been either:

(A) A patient in a rehabilitation program pursuant to a court order or hospitalized for alcohol, controlled substance or controlled substance analogue abuse or addiction pursuant to a court order within ten (10) years from the date of application; or

(B) A voluntary patient in a rehabilitation program or voluntarily hospitalized for alcohol, controlled substance or controlled substance analogue abuse or addiction within three (3) years from the date of application;

(11) That the applicant has not been convicted of the offense of driving under the influence of an intoxicant in this or any other state two (2) or more times within ten (10) years from the date of the application and that none of the convictions has occurred within five (5) years from the date of application or renewal;

(12) That the applicant has not been adjudicated as a mental defective, has not been judicially committed to or hospitalized in a mental institution pursuant to title 33, has not had a court appoint a conservator for the applicant by reason of a mental defect, has not been judicially determined to be disabled by reason of mental illness, developmental disability or other mental incapacity, and has not, within seven (7) years from the date of application, been found by a court to pose an immediate substantial likelihood of serious harm, as defined in title 33, chapter 6, part 5, because of mental illness;

(13) That the applicant is not an alien and is not illegally or unlawfully in the United States;

(14) That the applicant has not been discharged from the armed forces under dishonorable conditions;

(15) That the applicant has not renounced the applicant's United States citizenship;

(16) That the applicant has not been convicted of a misdemeanor crime of domestic violence as defined in 18 U.S.C. § 921(33);

(17) That the applicant is not receiving social security disability benefits by reason of alcohol dependence, drug dependence or mental disability; and

(18) That the applicant has not been convicted of the offense of stalking.

...

39-17-1352. Suspension or revocation of license.

(a) The department shall suspend or revoke a handgun permit upon a showing by its records or other sufficient evidence that the permit holder:

- (1) Is prohibited from purchasing a handgun under applicable state or federal law;
- (2) Has not accurately disclosed any material information required by § 39-17-1351;
- (3) Poses a material likelihood of risk of harm to the public;
- (4) Has been arrested for a felony involving the use or attempted use of force, violence or a deadly weapon or a felony drug offense;
- (5) Has been convicted of a felony;
- (6) Has violated any other provision of §§ 39-17-1351 -- 39-17-1360;
- (7) Has at any time committed an act or omission or engaged in a pattern of conduct that would render the permit holder ineligible to apply for or obtain a permit under the eligibility requirements of § 39-17-1351;
- (8) Has been convicted of domestic assault as defined in § 39-13-111, or any other misdemeanor crime of domestic violence and is still subject to the disabilities of such a conviction;
- (9) Is subject to a current order of protection that fully complies with 18 U.S.C. § 922(g)(8); or
- (10) Has been judicially committed to a mental institution pursuant to title 33, chapter 6 or title 33, chapter 7 or has been adjudicated as a mental defective.

(b)

(1) It is an offense for a permit holder to knowingly fail or refuse to surrender to the department a suspended or revoked handgun permit within ten (10) days from the date appearing on the notice of suspension or revocation sent to such permit holder by the department.

(2) A violation of this subsection (b) is a Class A misdemeanor.

(c)

(1) Upon the suspension or revocation of a permit, the department shall send notice of the suspension or revocation to the permit holder and the appropriate local law enforcement officers. The notice shall state the following:

(A) That the permit has been immediately suspended or revoked;

(B) That the permit holder must surrender the permit to the department within ten (10) days of the date appearing on the notice;

(C) That it is a Class A misdemeanor punishable by up to one (1) year in jail for the permit holder to knowingly fail or refuse to surrender the permit to the department within the ten-day period;

(D) That if the permit holder does not surrender the suspended or revoked permit within the ten-day period, a law enforcement officer will be directed to take possession of the permit; and

(E) That the permit holder has thirty (30) days from the date appearing on the notice of suspension or revocation to request a hearing on the suspension or revocation.

(2) If the permit holder fails to surrender the suspended or revoked permit as required by this section, the department shall issue authorization to the appropriate local law enforcement officials to take possession of the suspended or revoked permit and send it to the department.

(d) The applicant shall have a right to petition the general sessions court of the applicant's county of residence for judicial review of departmental denial, suspension or revocation of a permit. At the review by the general sessions court, the department shall be represented by the district attorney general.

(e)

(1) If a permit holder is arrested and charged with burglary, a felony drug offense or a felony offense involving violence or the use of a firearm, then the court first having jurisdiction over the permit holder with respect to the felony charge shall inquire as to whether the person has been issued a Tennessee handgun carry permit, order the permit holder to surrender the permit and send the permit to the department with a copy of the court's order that required the surrender of the permit. The department shall suspend the permit pending a final disposition on the felony charge against the permit holder.

(2) If a permit holder is arrested and charged with any felony offense other than an offense subject to subdivision (e)(1), then the court first having jurisdiction over the permit holder with respect to the felony charge shall inquire as to whether the person has been issued a Tennessee handgun carry permit, order the permit holder to surrender the permit and send the permit to the department with a copy of the court's order that required the surrender of the permit, unless the permit holder petitions the court for a hearing on the surrender. If the permit holder does petition the court, the court shall determine whether the permit holder will present a material risk of physical harm to the public if released and allowed to retain the permit. If the court determines that the permit holder will present a material risk of physical harm to the public, it shall condition any release of the permit holder, whether on bond or otherwise, upon the permit holder's surrender of the permit to the court. Upon surrender of the permit, the court shall send the permit to the department with a copy of the court's order that required the surrender of the permit and the department shall suspend the permit pending a final disposition of the felony charges against the permit holder.

(3) If the permit holder is acquitted on the charge or charges, the permit shall be restored to the holder and the temporary prohibition against the carrying of a handgun shall be lifted.

(4) If the permit holder is convicted of the charge or charges, the permit shall be revoked by the court and the revocation shall be noted in the judgment and minutes of the court. The court shall send the surrendered permit to the department.

(5) If the permit holder is placed on pre-trial diversion or judicial diversion, the permit holder's privilege to lawfully carry a handgun shall be suspended for the length of time the permit holder is subject to the jurisdiction of the court. The court shall send the surrendered permit to the department.

(f)

(1) If a permit holder is convicted of a Class A misdemeanor offense, the permit holder shall surrender the permit to the court having jurisdiction of the case for transmission to the department.

(2) The permit holder shall not be permitted to lawfully carry a handgun or exercise the privileges conferred by the permit for the term of the sentence imposed by the court for the offense or offenses for which the permit holder was convicted.

(g) In order to reinstate a permit suspended pursuant to subsection (e) or (f), the permit holder shall pay a reinstatement fee of twenty-five dollars (\$25.00) with one half (1/2) of the fee payable to the department of safety and one half (1/2) payable to the court that suspended the permit.

(1) Prior to the reinstatement of the permit, the permit holder shall have paid in full all fines, court costs and restitution, if any, required by the sentencing court.

(2) Failure to complete any terms of probation imposed by the court shall be a bar to reinstatement of the permit.

(3) Prior to reissuance of the permit, the department shall verify that the permit holder has complied with all reinstatement requirements of this subsection (g).

Federal Laws

18 U.S.C. § 921(a)(20)

The term “crime punishable by imprisonment for a term exceeding one year” does not include—

- (A) any Federal or State offenses pertaining to antitrust violations, unfair trade practices, restraints of trade, or other similar offenses relating to the regulation of business practices, or
- (B) any State offense classified by the laws of the State as a misdemeanor and punishable by a term of imprisonment of two years or less.

What constitutes a conviction of such a crime shall be determined in accordance with the law of the jurisdiction in which the proceedings were held. Any conviction which has been expunged, or set aside or for which a person has been pardoned or has had civil rights restored shall not be considered a conviction for purposes of this chapter, unless such pardon, expungement, or restoration of civil rights expressly provides that the person may not ship, transport, possess, or receive firearms.

18 U.S.C. § 921(a)(33)

(A) Except as provided in subparagraph (C) the term “misdemeanor crime of domestic violence” means an offense that—

- (i) is a misdemeanor under Federal, State, or Tribal law; and
- (ii) has, as an element, the use or attempted use of physical force, or the threatened use of a deadly weapon, committed by a current or former spouse, parent, or guardian of the victim, by a person with whom the victim shares a child in common, by a person who is cohabiting with or has cohabited with the victim as a spouse, parent, or guardian, or by a person similarly situated to a spouse, parent, or guardian of the victim.

(B)(i) A person shall not be considered to have been convicted of such an offense for purposes of this chapter, unless—

(I) the person was represented by counsel in the case, or knowingly and intelligently waived the right to counsel in the case; and

(II) in the case of a prosecution for an offense described in this paragraph for which a person was entitled to a jury trial in the jurisdiction in which the case was tried, either

(aa) the case was tried by a jury, or

(bb) the person knowingly and intelligently waived the right to have the case tried by a jury, by guilty plea or otherwise.

(ii) A person shall not be considered to have been convicted of such an offense for purposes of this chapter if the conviction has been expunged or set aside, or is an offense for which the person has been pardoned or has had civil rights restored (if the law of the applicable jurisdiction provides for the loss of civil rights under such an offense) unless the pardon, expungement, or restoration of civil rights expressly provides that the person may not ship, transport, possess, or receive firearms.

18 U.S.C. §922 Unlawful acts

(g) It shall be unlawful for any person—

(1) who has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year;

(2) who is a fugitive from justice;

(3) who is an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));

(4) who has been adjudicated as a mental defective or who has been committed to a mental institution;

(5) who, being an alien—

(A) is illegally or unlawfully in the United States; or

(B) except as provided in subsection (y)(2), has been admitted to the United States under a nonimmigrant visa (as that term is defined in section 101(a)(26) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(26)));

(6) who has been discharged from the Armed Forces under dishonorable conditions;

(7) who, having been a citizen of the United States, has renounced his citizenship;

(8) who is subject to a court order that—

(A) was issued after a hearing of which such person received actual notice, and at which such person had an opportunity to participate;

(B) restrains such person from harassing, stalking, or threatening an intimate partner of such person or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child; and

(C)(i) includes a finding that such person represents a credible threat to the physical safety of such intimate partner or child; or

(ii) by its terms explicitly prohibits the use, attempted use, or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury; or

(9) who has been convicted in any court of a misdemeanor crime of domestic violence,

to ship or transport in interstate or foreign commerce, or possess in or affecting commerce, any firearm or ammunition; or to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.