

Department of State
Division of Publications
312 Rosa L. Parks, 8th Floor Snodgrass/TN Tower
Nashville, TN 37243
Phone: 615-741-2650
Fax: 615-741-5133
Email: register.information@tn.gov

For Department of State Use Only

Sequence Number: 01-15-14
Rule ID(s): 5659-5661
File Date (effective date): 1/28/14
End Effective Date: 7/27/14

Emergency Rule Filing Form

Emergency rules are effective from date of filing for a period of up to 180 days.

Agency/Board/Commission: Department of Commerce and Insurance
Division: Tennessee Peace Officer Standards and Training Commission
Contact Person: Joseph Underwood, Chief Counsel
Address: 500 James Robertson Parkway, 8th Floor, Davy Crockett Tower
Zip: 37243
Phone: 615-741-3899
Email: Joseph.Underwood@tn.gov

Rule Type:

Emergency Rule

Revision Type (check all that apply):

Amendment
 New
 Repeal

Statement of Necessity:

Pursuant to T.C.A. § 38-8-104(c), the Peace Officer Standards and Training (POST) Commission is authorized to adopt and enforce such rules and regulations as may be necessary to carry out the provisions of T.C.A. § 38-8-101 et seq., relating to the establishment of uniform standards of training for the employment and training of law enforcement officers, including preemployment qualifications and requirements for officer certification. Moreover, the Commission possesses the authority pursuant to T.C.A. § 38-8-104(d) to establish criteria for determining whether to grant an exception to or waive the qualifications of minimum standards as provided in T.C.A. § 38-8-106.

This emergency rule is required by Public Chapter 137 of the 2013 Acts (codified in part in T.C.A. §§ 38-8-104(e) and 38-8-106(9)), enacted by the General Assembly and signed by the Governor on April 12, 2013. This rule is promulgated pursuant to T.C.A. §§ 38-8-104(e) and 38-8-106(9), to adopt applicable provisions of the Americans with Disabilities Act (ADA), 42 United States Code 12101, et. seq. The ADA codifies particular language regarding persons with mental impairments, but state rules and statutes did not use compatible language. Public Chapter 137 (2013) adopted the language from the ADA for statutes where applicable, and the amendments contained herein adopt those changes in the rules.

Rule(s) Revised (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please enter only **ONE** Rule Number/RuleTitle per row)

Chapter Number	Chapter Title
1110-02	Certification
Rule Number	Rule Title
1110-02-.03	Law Enforcement Officer Certification Requirements

Chapter Number	Chapter Title
1110-08	Part-Time/Temporary/Auxiliary Law Enforcement Officers
Rule Number	Rule Title
1110-08-.02	Preemployment Requirements

Chapter Number	Chapter Title
1110-09	Criteria for Waivers
Rule Number	Rule Title
1110-09-.04	Waiver of Preemployment Requirements

(Place substance of rules and other info here. Statutory authority must be given for each rule change. For information on formatting rules go to <http://state.tn.us/sos/rules/1360/1360.htm>)

Substance of Proposed Rules

Chapter 1110-02 Certification

Rule 1110-02-.03 Law Enforcement Officer Certification Requirements is amended by deleting subparagraph (1)(j) in its entirety and substituting the following language, so as amended, the new subparagraph (1)(j) shall read:

- (1)
- (j) Have been certified by a Tennessee Licensed Health Care Provider qualified in the psychiatric or psychological fields as being free from any impairment, as set forth in the current edition of the Diagnostic and Statistical Manual of Mental Disorders (DSM) of the American Psychiatric Association at the time of the examination, that would, in the professional judgment of the examiner, affect the person's ability to perform an essential function of the job, with or without a reasonable accommodation.
 - 1. A new evaluation shall be required:
 - (i) after a six (6) month break in full-time law enforcement service; or,
 - (ii) upon the request of the employing agency, for good cause.
 - 2. If applicable, refer to Tenn. Comp. R. & Regs. 1110-09 Criteria for Waivers.

Authority: T.C.A. §§ 38-8-104, 38-8-105, 38-8-106, 38-8-107, and 38-8-111.

Chapter 1110-08 Part-Time/Temporary/Auxiliary Law Enforcement Officers

Rule 1110-08-.02 Preemployment Requirements is amended by deleting subparagraph (1)(i) in its entirety and substituting the following language, so as amended, the new subparagraph (1)(i) shall read:

- (1)
- (i) Have been certified by a Tennessee Licensed Health Care Provider qualified in the psychiatric or psychological fields as being free from any impairment, as set forth in the current edition of the Diagnostic and Statistical Manual of Mental Disorders (DSM) of the American Psychiatric Association at the time of the examination, that would, in the professional judgment of the examiner, affect the person's ability to perform an essential function of the job, with or without a reasonable accommodation. If applicable, refer to Tenn. Comp. R. & Regs. 1110-09 Criteria for Waivers.

Authority: T.C.A. §§ 38-8-101 and 38-8-106.

Chapter 1110-09
Criteria for Waivers

Rule 1110-09-.04 Waiver of Preemployment Requirements is amended by deleting subparagraph (1)(c) in its entirety and substituting the following language, so as amended, the new subparagraph (1)(c) shall read:

(1)

- (c) Mental Impairment - A waiver shall not be granted from preemployment requirements for a mental impairment that would affect the person's ability to perform an essential function of the job, with or without a reasonable accommodation.

Authority: T.C.A. §§ 38-8-104, 38-8-105, and 38-8-106.

* If a roll-call vote was necessary, the vote by the Agency on these rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Robert Rhoades				X	
Glen Donoho				X	
Gerald Fanion	X				
Carl Jenkins	X				
Jeff Lewis	X				
James Wheeler	X				
Ric Wilson	X				
Brent Cherry	X				
Rita Baker	X				
David Bennett				X	
Franklin Lax	X				
Glenn Chrisman	X				
Bobby Williamson	X				
Kim Wallace	X				
David Woolfork				X	

I certify that this is an accurate and complete copy of an emergency rule(s), lawfully promulgated and adopted.

Date: 11/15/2013

Signature: Joseph Underwood

Name of Officer: Joseph Underwood

Title of Officer: Chief Counsel for Fire Prevention & Law Enforcement



Subscribed and sworn to before me on: 11/15/2013

Notary Public Signature: Kelly Johns

My commission expires on: 10/20/2014

All emergency rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

Robert E. Cooper, Jr.

Robert E. Cooper, Jr.
Attorney General and Reporter

12-6-13

Date

Department of State Use Only

Filed with the Department of State on: 1/28/14

Effective for: 180 *days

Effective through: 7/27/14

* Emergency rule(s) may be effective for up to 180 days from the date of filing.



Tre Hargett
Secretary of State

RECEIVED
2014 JAN 28 PM 3:51
OFFICE OF
SECRETARY OF STATE

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 "any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments." (See Public Chapter Number 1070 (<http://state.tn.us/sos/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

The rule will impact local governments.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

- (A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

The emergency rule updates the language in the current rules to reflect the changes in the statutory language addressing the Americans with Disabilities Act (ADA) adopted in Public Chapter 137 of the 2013 Acts that became effective April 12, 2013.

- (B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

This rule is promulgated pursuant to T.C.A. §§ 38-8-104(e) and 38-8-106(9), and the Americans With Disabilities Act (ADA), 42 United States Code 12101, et. seq. The ADA codifies particular language regarding persons with mental impairments, but the state rules and statutes did not use compatible language. Public Chapter 137 of the 2013 Acts adopted the language from the ADA for statutes where applicable, and the proposed amendments adopt the language in the rules.

- (C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

The amendments in the current language regarding ADA requirements will bring the rules in compliance with state and federal law but will not change the application.

- (D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule;

Not applicable.

- (E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

Possibly a minimal increase in expenditures.

- (F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Joseph Underwood, Chief Counsel for Fire Prevention and Law Enforcement, Department of Commerce and Insurance, and Brian Grisham, Executive Secretary for the Peace Officer Standards and Training (POST) Commission and Director of the Tennessee Law Enforcement Training Academy (TLETA)

- (G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Joseph Underwood, Chief Counsel for Fire Prevention and Law Enforcement, Department of Commerce and Insurance, and Brian Grisham, Executive Secretary for the Peace Officer Standards and Training (POST) Commission and Director of the Tennessee Law Enforcement Training Academy (TLETA)

- (H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

Joseph Underwood, 500 James Robertson Pkwy, Davy Crockett Tower, 8th Floor Nashville, TN 37243, (615) 741-3899 Joseph.Underwood@tn.gov; and Brian Grisham, 3025 Lebanon Pike, Nashville, TN 37214; (615) 741-4448; Brian.Grisham@tn.gov

(I) Any additional information relevant to the rule proposed for continuation that the committee requests.

Not applicable.

**RULES
OF
THE TENNESSEE PEACE OFFICER STANDARDS
AND TRAINING COMMISSION**

**CHAPTER 1110-02
CERTIFICATION**

**TABLE OF
CONTENTS**

1110-02-.01	Persons Required to be Certified	1110-02-.04	Denial, Suspension, and Revocation of Certification
1110-02-.02	Failure to Comply		
1110-02-.03	Law Enforcement Officer Certification Requirements		

1110-02-.03 LAW ENFORCEMENT OFFICER CERTIFICATION REQUIREMENTS. All full-time commissioned law enforcement officers employed by an agency required to meet minimum standards must meet pre-employment requirements and, upon completion of the required basic training, will be issued a POST Certification.

- (1) Full-time Commissioned Law Enforcement Officer Pre-employment Requirements. The Commission shall issue a certificate of compliance to any person who meets the qualifications for employment and satisfactorily completes a POST certified Basic Law Enforcement Training Academy. All persons employed as a full-time law enforcement officer, after July 1, 1982, must be certified by POST and shall comply with the following pre-employment requirements:
- (a) Be at least eighteen (18) years of age;
 - (b) Be a citizen of the United States;
 - (c) Be a high school graduate or possess equivalence. No waivers will be granted for minimum education requirements;
 - (d) 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 and other alcoholic beverages or controlled substances;
 - (e) The agency must present a copy of any DD-214s, DD-215s and DD873s along with the application for certification.
 1. The commission may consider a waiver from pre-employment requirements for a person who has been convicted of, 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 and other alcoholic beverages or controlled substances when the offense was classed as a misdemeanor.
 2. No waiver shall be granted while officer is under the jurisdiction of the court or considered on probation, whether supervised or unsupervised, and in the case of "driving while intoxicated" the officer shall have met all the requirements of the Tennessee Department of Safety and have been restored his/her permanent driving privileges under the laws of the State of Tennessee.
 3. No waiver will be granted for a narcotics violation that could result in a felony charge.

4. The agency must present a written request for waiver for these charges and provide a copy of the final court disposition of the case.

- (f) Not have been released or discharged under any other than honorable discharge from any of the armed forces of the United States;
- (g) Have his fingerprints on file with the Tennessee Bureau of Investigation;
- (h) Have passed a physical examination by a licensed physician;
- (i) Have good moral character as determined by a thorough investigation conducted by the employing agency; and/or the POST Commission
- (j) Have been certified by a Tennessee Licensed Health Care Provider qualified in the psychiatric or psychological fields as being free from any ~~disorder/impairment~~, as set forth in the current edition of the Diagnostic and Statistical Manual of Mental Disorders (DSM) of the American Psychiatric Association at the time of the examination, that would, in the professional judgment of the examiner, ~~impair~~ affect the subject's person's ability to perform any an essential function of the job, with or without a reasonable accommodation.

1. ~~No waiver will be granted for mental disorders.~~

2.1. A new evaluation shall be required:

- a. (i) after a six (6) month break in full-time law enforcement service; or
- b. (ii) upon the request of the employing agency, for good cause.

2. If applicable, refer to Tenn. Comp. R. & Regs. 1110-09 Criteria for Waivers.

- (k) Not have been previously decertified as a law enforcement officer by the POST Commission.
- (l) Not have previously voluntarily surrendered their certification as a law enforcement officer.
- (2) Training Requirements. Any officer seeking certification under these rules who conforms to pre-employment requirements shall, within six months of initial employment as a law enforcement officer, satisfactorily complete the Basic Law Enforcement Course as established in accordance with these rules. During this initial six-month period prior to attending the Basic Law Enforcement Course, the recruit must be paired with a Field Training Officer or other certified senior officer.

Commencing July 1, 1982, any time served as a full-time commissioned law enforcement officer in any Tennessee law enforcement agency is accumulative and will count as part of the six-month time limit.

- (3) Application Requirement. No officer shall be certified under these rules unless application is made at such time and in such form as the Commission may require (T.C.A. § 38-8-104).

If after enrolling in an academy an officer does not successfully complete basic police training, he/she must return to the same academy under the following circumstances:

- (a) to make up any portion not successfully completed.
- (b) if dropped for academic or disciplinary reason.

- (c) in the event an officer fails to successfully complete basic police training after returning for makeup he/she must retake the entire school.
- (4) Verification Requirement. No officer shall be certified under these rules unless (T.C.A. § 38-8-104):
- (a) The law enforcement agency employing said officer when the Basic Law Enforcement Course is begun shall submit, at such time and in such form as the Commission may require, verification that the officer (at the time the officer was employed) met the pre-employment requirements set forth in this chapter.
 - (b) The Director of the Academy where said officer satisfactorily completed Basic Law Enforcement School, established in accordance with these rules, shall submit verification, in such form as the Commission may require, that the officer has met the Basic Training requirements set forth in this chapter.
 - (c) The Commission may certify any person who has received training in another state when the Commission has determined that such training was at least equivalent to that required by the Commission for approved law enforcement education and training programs in this state and when such person has satisfactorily complied with all other requirements (T.C.A. § 38-8-107). Established criteria shall be that which governs the requirements set forth for completion of the Basic Law Enforcement Recruit School, as outlined in Chapter 7 of POST Rules.
 - 1. Beginning July 1, 2010, any person whose basic training from another state has been substituted for Tennessee requirements must successfully attend the POST's three (3) week transition school within six (6) months of employment.
- (5) Substitution of Experience for exempt/exempted officers. No officer shall be certified under these rules unless:
- (a) The law enforcement agency employing said officer shall submit an Application for Certification, Confirmation of Psychological Examination, and Confirmation of Physical Examination, to verify that all preemployment requirements have been met.
 - (b) Beginning July 1, 2010, any person applying for substitution of experience must successfully attend the POST's three (3) week transition school within six (6) months of employment.
- (6) Break in Full-Time Law Enforcement Service.
- (a) Beginning July 1, 2010, certified officers who have had a five-year break, but less than a ten-year break in full-time law enforcement service must successfully attend the POST's three (3) week transition school within six (6) months of employment before their certification is reinstated. Officers with over a ten-year break in full-time law enforcement service shall be required to attend a Basic Law Enforcement Academy.
 - (b) Beginning July 1, 2010, officers who were certified under the Grandfather Clause of July 1, 1970, and have attended an approved basic law enforcement school, must successfully attend the POST's three (3) week transition school within six (6) months of employment if they have a five-year break in full-time service.
 - (c) Officers who were certified under the Grandfather Clause of July 1, 1970, and have not attended an approved basic law enforcement school, lose their grandfathered status if they have a break in service. However, these officers may apply for certification if they have had ten (10) years of full-time experience since July 1, 1970, and have had no longer than a five-year break in service. Beginning July 1, 2010, they are required to successfully attend the POST's three (3) week transition school within six (6) months of employment.

These officers may separate directly from one law enforcement agency and be employed as a full-time law enforcement officer by another law enforcement agency with no loss of certification as long as there is no break in service.

- (d) Beginning July 1, 2010, officers who have attended an approved basic law enforcement school and who were not required to be certified at that time, may apply for certification based on this training within two (2) years of the date of completion of the basic law enforcement school. These officers must successfully attend the POST's three (3) week transition school within six (6) months of employment to qualify for certification after two (2) years and less than ten (10) years from the date of completion of the basic law enforcement school. Officers with over a ten-year break from the date of completion of the basic law enforcement school shall be required to attend a Basic Law Enforcement Academy.
- (e) An officer's certification expires after separation of full-time employment from a law enforcement agency. A new application for certification is required for each new employment as a law enforcement officer.

Authority: T.C.A. §§38-8-104, 38-8-105, 38-8-106, 38-8-107, 38-8-111, and 38-8-111(f). **Administrative History:** Original rule filed December 20, 1982; effective January 19, 1983. Amendment filed January 28, 1986; effective April 15, 1986. Amendment filed September 17, 1987; effective December 29, 1987. Amendment filed January 6, 1989; effective May, 1, 1989. Amendment filed November 13, 1989; effective February 28, 1990. Amendment filed August 4, 1992; effective November 29, 1992. Amendment filed October 25, 1993; effective March 1, 1994. Amendment filed April 19, 2002; effective August 28, 2002. Amendment filed October 2, 2006; effective February 28, 2007. Amendment filed March 18, 2010; effective June 16, 2010. Amendments filed March 11, 2011; effective June 9, 2011.

**RULES OF
THE TENNESSEE PEACE OFFICER
STANDARDS AND TRAINING COMMISSION**

**CHAPTER 1110-08
PART-TIME/TEMPORARY/AUXILIARY LAW ENFORCEMENT OFFICERS**

TABLE OF CONTENTS

1110-8-.01	Definitions	1110-8-.04	In-Service Training Requirements
1110-8-.02	Preemployment Requirements	1110-8-.05	Records Kept by Employing Agency
1110-8-.03	Training Requirements	1110-8-.06	Audit

1110-8-.01 DEFINITIONS.

- (1) Part-time/Temporary/Reserve/Auxiliary Law Enforcement Officer is defined as any person employed by any municipality or any political subdivision of the state of Tennessee whose primary responsibility is to support the full-time law enforcement officers in the prevention and detection of crime, apprehension of offenders, assisting in the prosecution of offenders for appropriate remuneration in measure with specifically assigned duties and/or job description. Part-time law enforcement officers will work no more than twenty (20) hours per week or a total of no more than one hundred hours per month. Any law enforcement officer who works in excess of the maximum hours as specified herein will be reclassified to a full-time status and must meet all requirements for standards/training as mandated under the law and Peace Officer Standards and Training Commission rules.

Provided however, in any situation where an officer is temporarily assigned for a period of one (1) month or less, to work more than twenty (20) hours per week or a total of more than one hundred (100) hours per month, such officer shall not be reclassified to a full-time status.

- (2) Special Deputy is defined within this section as any person who is assigned specific law enforcement functions as to the prevention and detection of crime and general laws of this state on a volunteer basis, whether working alone or with other law enforcement officers. Any law enforcement officer working on a volunteer basis shall receive no pay or benefits except for honorariums and may be utilized for an unlimited number of hours.

Authority: T.C.A. § 38-8-101. **Administrative History:** Original rule filed January 6, 1989; effective May 1, 1989. Amendment filed April 19, 2002; effective August 28, 2002.

1110-08-.02 PRE-EMPLOYMENT REQUIREMENTS.

- (1) After January 1, 1989, any person employed/utilized as part-time/temporary/reserve/auxiliary law enforcement officer or as a special deputy shall:
- (a) Be at least eighteen (18) years of age;
 - (b) Be a citizen of the United States;
 - (c) Be a high school graduate or possess equivalence. No waivers will be granted for minimum education requirements;
 - (d) 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;

(Rule 1110-8-.06, continued)

1. The commission may consider a waiver from pre-employment requirements for a person who has been convicted of, or entered a plea of nolo contendere to any violation of any federal or state laws or city ordinances (excluding felony charges) relating to force, violence, theft, dishonesty, gambling, liquor (including driving while intoxicated), or controlled substances when the offense was classed as a misdemeanor.
 2. No waiver shall be granted while officer is under the jurisdiction of the court or considered on probation, whether supervised or unsupervised, and in the case of "driving while intoxicated" the officer shall have met all the requirements of the Tennessee Department of Safety and have been restored his/her permanent driving privileges under the laws of the State of Tennessee.
 3. A person who has had misdemeanor charges expunged may be considered for certification. It is the responsibility of the officer and employing agency to present information and court documents relating to expungement to the Commission.
 4. No waiver will be granted for felony convictions or a narcotics violation that could result in a felony charge.
 5. The agency must present a written request for waiver for these charges and provide a copy of the final court disposition of the case.
- (e) Not have been released or discharged under any other than honorable discharge from any of the armed forces of the United States;
- (f) Have his fingerprints on file with the Tennessee Bureau of Investigation;
- (g) Have passed a physical examination by a licensed physician;
- (h) Have good moral character as determined by a thorough investigation conducted by the employing agency; and
- (i) ~~Have been certified by a Tennessee Licensed Health Care Provider qualified in the psychiatric or psychological fields as being free from any disorder/impairment, as set forth in the current edition of the Diagnostic and Statistical Manual of Mental Disorders (DSM) of the American Psychiatric Association at the time of the examination—DSM, that would, in the professional judgment of the examiner, impair/affect the subject's person's ability to perform any/an essential function of the job, with or without a reasonable accommodation. If applicable, refer to Tenn. Comp. R. & Regs. 1110-09 Criteria for Waivers.~~
- (j) ~~1. No waiver will be granted for mental disorders.~~
- (2) Part-time/temporary/reserve/auxiliary law enforcement officers and special deputies who were employed prior to January 1, 1989 and have had continuous service are exempt from pre-employment requirements as long as they remain on active service with the department by which they are originally employed. Any part-time/temporary/reserve/auxiliary law enforcement officer or special deputy who has a break in service of any length whatsoever will be required to meet pre-employment and training standards.

Authority: T.C.A. §§ 38-8-101 and 38-8-106. **Administrative History:** Original rule filed January 6, 1989; effective May 1, 1989. Amendment filed April 19, 2002; effective August 28, 2002. Amendment filed October 2, 2006; effective February 28, 2007.

**RULES
OF
THE TENNESSEE PEACE OFFICER STANDARDS**

**CHAPTER 1110-09
CRITERIA FOR WAIVERS**

TABLE OF CONTENTS

1110-09-.01	Submission of Waiver Requests	1110-09-.04	Waivers of Preemployment Requirements
1110-09-.02	Waivers of Basic Training	1110-09-.05	Waivers of In-service Training
1110-09-.03	Waivers of POST Transition School	1110-09-.06	Waivers of Eight (8) months Full-Time Service

1110-09-.04 WAIVER OF PREEMPLOYMENT REQUIREMENTS. A waiver of preemployment requirements may be granted under the following circumstances:

(1) No person may be employed as a law enforcement officer, who requires a waiver under this section, until such waiver is granted. "Any person who shall appoint any applicant, who, to the knowledge of the appointee, fails to meet the minimum standards as set forth herein or required by the Commission, and any person who signs the warrant or check for the payment of the salary of any person who, to the knowledge of the signer, fails to meet the qualifications as a law enforcement officer as provided herein or required by the Commission, shall be guilty of a misdemeanor and, upon conviction, shall be subject to a fine not exceeding one thousand dollars (\$1,000)".

(a) Military History - The Commission may waive preemployment requirements relating to the military history on an individual basis and depending on the circumstances.

1. Waivers may be granted from preemployment requirements for the following separations from military service:

- (i) an Entry Level Separation
- (ii) a General Discharge under Honorable Conditions.

2. Waivers will not be granted from preemployment requirements for the following separation from military service:

- (i) Dishonorable Discharge
- (ii) Bad Conduct Discharge
- (iii) Other Than Honorable Discharge

(b) Criminal Activity - The Commission may consider a waiver from preemployment requirements relating to criminal activity on an individual basis and depending on the circumstances.

1. Waivers may be granted if the officer has 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 law or city ordinance (excluding domestic violence) with the following charges:

- (i) relating to force, violence, theft, dishonesty, gambling, liquor and other alcoholic beverages;
- (ii) or controlled substances, as defined in the Tennessee Drug Control Act

compiled in Title 39, Chapter 17, Part 4, when the offense was classed as a misdemeanor.

2. The employing agency requesting waiver must present a copy of the final court disposition of the case.
 3. Some of the factors to be considered when determining whether to grant a waiver shall be:
 - (i) the amount of time since the offense;
 - (ii) the amount of time since completion of the sentence;
 - (iii) the type, circumstances and severity of the offense;
 - (iv) the applicant's activities since the offense; and
 - (v) the applicant's ability to carry a fire arm pursuant to federal and state law.
- (c) ~~Mental Disorder—Impairment-~~ A waiver will ~~shall~~ not be granted from preemployment requirements ~~relating to for a mental disorder impairment that would affect the person's ability to perform an essential function of the job, with or without a reasonable accommodation.~~
- (d) Education - A waiver will not be granted from preemployment requirements relating to minimum education requirements.
- (e) Previous decertification or voluntary surrender of certification as a law enforcement officer – The Commission may waive preemployment requirements relating to previous decertification or voluntary surrender of certification as a law enforcement officer on an individual basis and depending on the circumstances.
1. Some of the factors to be considered when determining whether to grant a waiver shall be:
 - (i) the circumstances surrounding and which lead to the previous decertification or voluntary surrender of certification as a law enforcement officer;
 - (ii) the amount of time since the previous decertification or voluntary surrender of certification as a law enforcement officer;
 - (iii) the applicant's activities since the offense; and
 - (iv) the applicant's ability to carry a fire arm pursuant to federal and state law

Authority: T.C.A. §§38-8-104, 38-8-105, and 38-8-106. **Administrative History:** Original rule filed August 4, 1992; effective November 29, 1992. Amendment filed April 19, 2002; effective August 28, 2002. Amendment filed October 6, 2006; effective February 28, 2007. Amendments filed March 18, 2010; effective June 16, 2010. Amendments filed March 11, 2011; effective June 9, 2011.