

**Department of State
Division of Publications**

312 Rosa L. Parks Avenue, 8th Floor Snodgrass/TN Tower
Nashville, TN 37243
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For Department of State Use Only

Sequence Number: 03-07-16
Rule ID(s): 6136
File Date: 3/10/16
Effective Date: 6/8/16

Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing (Tenn. Code Ann. § 4-5-205).

Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).

Agency/Board/Commission:	Environment and Conservation
Division:	State Parks
Contact Person:	Mike Robertson
Address:	William R. Snodgrass Tennessee Tower 312 Rosa L. Parks Avenue, 2nd Floor Nashville, Tennessee
Zip:	37243
Phone:	(615) 532-0434
Email:	Mike.Robertson@tn.gov

Revision Type (check all that apply):

- Amendment
- New
- Repeal

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/Rule Title per row)

Chapter Number	Chapter Title
0400-02-02	Public Use and Recreation
Rule Number	Rule Title
0400-02-02-.11	Firearms, Traps, and Other Weapons
0400-02-02-.14	Alcoholic Beverages

(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>)

Chapter 0400-02-02
Public Use and Recreation

Amendments

Rule 0400-02-02-.11 Firearms, Traps, and Other Weapons is amended by deleting it in its entirety and substituting instead the following:

0400-02-02-.11 Firearms, Traps, and Other Weapons.

- (1) In park, natural, and historical areas the use of traps, seines, handthrown spears, nets (except landing nets), firearms (including air and gas powered pistols and rifles), blow guns, bows and arrows or crossbows, and any other implements designed to discharge missiles in the air or under the water which are capable of destroying animal life are prohibited. The possession of such objects or implements is prohibited unless they are unloaded and adequately cased, or broken down or otherwise packed in such a way as to prevent their use while in the park areas.
- (2) Exceptions
 - (a) Shooters may use recreational target shooting ranges available for skeet, trap and bow and arrow target shooting within a park area as long as these weapons are properly cased when not on the range.
 - (b) Authorized Federal, State, County and City law enforcement officers may carry firearms in the performance of their official duties.
 - (c) Persons using park area facilities while participating in authorized open or managed hunts within the park areas or beyond, may use and possess firearms under the specific rules and regulations pertaining to the authorized hunt and only in the authorized hunting zones or compartments.
 - (d) In accordance with T.C.A. § 39-17-1311, persons who are authorized to carry a handgun pursuant to T.C.A. § 39-17-1351 may carry handguns, unless such persons:
 1. Are in the immediate vicinity of an athletic event or other school-related activity on an athletic field sponsored by a school or university: and
 2. (i) Knew or should have known such an athletic event or other school-related activity was taking place, or
(ii) Failed to take reasonable steps to leave the area of the athletic event or school-related activity after being informed of or becoming aware of its use.

Authority: T.C.A. §§ 11-1-101 et seq. and 4-5-201 et seq.

Rule 0400-02-02-.14 Alcoholic Beverages is amended by deleting it in its entirety and substituting instead the following:

0400-02-02-.14 Alcoholic Beverages.

- (1) Possessing alcoholic beverages in an open container or consuming any alcoholic beverages in any state park area is prohibited, except as specifically allowed in paragraph (2) of this rule.
- (2) Possessing alcoholic beverages in an open container or consuming any alcoholic beverages in any state park area is allowed in the following designated areas and circumstances:
 - (a) In the overnight accommodations set out below:

1. Designated campsites;
 2. Cabins;
 3. Inn Rooms;
 4. Group Camps; and
 5. Other accommodations designated by the Division of State Parks.
- (b) In any designated group day-use facility by any authorized group which has paid a reservation fee and has obtained a prior authorization from the Park Manager to consume alcohol. A designated group day-use facility includes:
1. Designated picnic area, shelters, or meeting rooms; and
 2. Open-Space venues that have specific boundaries as defined by the Park Manager.
- (c) In any facility that is licensed to sell alcoholic beverages.

Authority: T.C.A. §§ 11-1-101 et seq. and 4-5-201 et seq.

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Commissioner of the Department of Environment and Conservation on 11/03/2015 (mm/dd/yyyy), and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 09/03/15

Rulemaking Hearing(s) Conducted on: (add more dates). 10/27/15

Date: 11/3/15

Signature: Robert J. Martineau, Jr.

Name of Officer: Robert J. Martineau, Jr.

Title of Officer: Commissioner



Subscribed and sworn to before me on: 11/3/15

Notary Public Signature: Kati Hicks

My commission expires on: 11/5/18

All rulemaking hearing 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.

Herbert H. Slatery III

Herbert H. Slatery III
Attorney General and Reporter

3/8/2016

Date

Department of State Use Only

Filed with the Department of State on: 3/10/16

Effective on: 6/8/16

Tre Hargett

Tre Hargett
Secretary of State

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2016 MAR 10 PM 1:32

SECRETARY OF STATE
PUBLICATIONS

Public Hearing Comments

One copy of a document containing responses to comments made at the public hearing must accompany the filing pursuant to T.C.A. § 4-5-222. Agencies shall include only their responses to public hearing comments, which can be summarized. No letters of inquiry from parties questioning the rule will be accepted. When no comments are received at the public hearing, the agency need only draft a memorandum stating such and include it with the Rulemaking Hearing Rule filing. Minutes of the meeting will not be accepted. Transcripts are not acceptable.

There were no comments received by the Department regarding this rulemaking.

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process as described in T.C.A. § 4-5-202(a)(3) and T.C.A. § 4-5-202(a), all agencies shall conduct a review of whether a proposed rule or rule affects small businesses.

- (1) The type or types of small business and an identification and estimate of the number of small businesses subject to the proposed rule that would bear the cost of, or directly benefit from the proposed rule.

This rulemaking will not affect any small businesses.

- (2) The projected reporting, recordkeeping, and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record.

There are not costs to small business resulting from this rulemaking.

- (3) A statement of the probable effect on impacted small businesses and consumers.

There are not impacts on small businesses and consumers resulting from this rulemaking.

- (4) A description of any less burdensome, less intrusive or less costly alternative methods of achieving the purpose and objectives of the proposed rule that may exist, and to what extent the alternative means might be less burdensome to small business.

This rulemaking will not affect any small businesses.

- (5) A comparison of the proposed rule with any federal or state counterparts.

This rulemaking will not affect any small businesses.

- (6) Analysis of the effect of the possible exemption of small businesses from all or any part of the requirements contained in the proposed rule.

This rulemaking will not affect any small businesses.

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 Department does not anticipate that these amended rules will have a financial impact on 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;

This rulemaking amends Rule 0400-02-02-.11, in order to align Tennessee State Park regulations with T.C.A. § 39-17-1311 regarding possession of handguns in state parks, and amends Rule 0400-02-02-.14 to clarify where alcoholic beverages may be consumed in state parks.

- (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;

These rule changes are being promulgated in accordance with T.C.A. § 11-1-101.

- (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;

State Park guests are directly impacted by these proposed amendments. There were no comments received during the public comment period.

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

The Department is not aware of any.

- (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;

The Department anticipates an increase of approximately \$20,000 annually as a result of these amendments. The Department currently receives regular inquiries from customers interested in renting event space and serving alcohol at the proposed special event. The estimated revenue is estimated based on the current number of requests received for special events. The Department is going to implement an alcohol permit fee for special events that plan to serve alcohol. In the resort parks that currently serve alcohol in the food service facilities, there will be a corkage fee implemented if the special event chooses to provide its own alcohol rather than purchasing alcohol from the park food service facility.

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

Mike Robertson
William R. Snodgrass Tennessee Tower
312 Rosa L. Parks Avenue, 2nd Floor
Nashville, Tennessee 37243
(615) 532-0434
Mike.Robertson@tn.gov

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

Jenny Howard
Deputy General Counsel
Office of General Counsel

- (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

Office of General Counsel
Tennessee Department of Environment and Conservation
William R. Snodgrass Tennessee Tower
312 Rosa L. Parks Avenue, 2nd Floor
Nashville, Tennessee 37243
(615) 532-8685
Jenny.Howard@tn.gov

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

The Department is not aware of any additional relevant information requested.

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Agency/Board/Commission:	Environment and Conservation
Division:	State Parks
Contact Person:	Mike Robertson
Address:	William R. Snodgrass Tennessee Tower 312 Rosa L. Parks Avenue, 2nd Floor Nashville, Tennessee
Zip:	37243
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Revision Type (check all that apply):

- Amendment
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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/Rule Title per row)

Chapter Number	Chapter Title
0400-02-02	Public Use and Recreation
Rule Number	Rule Title
0400-02-02-.11	Firearms, Traps, and Other Weapons
0400-02-02-.14	Alcoholic Beverages

(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>)

Chapter 0400-02-02
Public Use and Recreation

Amendments

Rule 0400-02-02-.11 Firearms, Traps, and Other Weapons is amended by deleting it in its entirety and substituting instead the following:

0400-02-02-.11 Firearms, Traps, and Other Weapons.

(1) In park, natural, and historical areas the use of traps, seines, handthrown spears, nets (except landing nets), firearms (including air and gas powered pistols and rifles), blow guns, bows and arrows or crossbows, and any other implements designed to discharge missiles in the air or under the water which are capable of destroying animal life is ~~are~~ prohibited. The possession of such objects or implements is prohibited unless they are unloaded and adequately cased, or broken down or otherwise packed in such a way as to prevent their use while in the park areas.

(2) Exceptions

Exception 1:

(a) Shooters may use recreational target shooting ranges available for skeet, trap and bow and arrow target shooting within a park area as long as these weapons are properly cased when not on the range.

Exception 2:

(b) Authorized Federal, State, County and City law enforcement officers may carry firearms in the performance of their official duties.

Exception 3:

(c) Persons using park area facilities while participating in authorized open or managed hunts within the park areas or beyond, may use and possess firearms under the specific rules and regulations pertaining to the authorized hunt and only in the authorized hunting zones or compartments.

(d) In accordance with T.C.A. § 39-17-1311, persons who are authorized to carry a handgun pursuant to T.C.A. § 39-17-1351 may carry handguns, unless such persons:

1. Are in the immediate vicinity of an athletic event or other school-related activity on an athletic field sponsored by a school or university; and

2. (i) Knew or should have known such an athletic event or other school-related activity was taking place, or

(ii) Failed to take reasonable steps to leave the area of the athletic event or school-related activity after being informed of or becoming aware of its use.

Authority: T.C.A. §§ 11-1-101 et seq. and 4-5-201 et seq.

Rule 0400-02-02-.14 Alcoholic Beverages is amended by deleting it in its entirety and substituting instead the following:

0400-02-02-.14 Alcoholic Beverages.

(1) ~~Except in facilities that are licensed to sell alcoholic beverages, consumption of alcoholic beverages within state park areas that are open to the general public is forbidden~~ Possessing alcoholic beverages in an open container or consuming any alcoholic beverages in any state park area is prohibited, except as specifically allowed in paragraph (2) of this rule.

(2) ~~Except in facilities that are licensed to sell alcoholic beverages, the public display of any container of alcoholic beverages is prohibited within state park areas that are open to the general public. Possessing alcoholic beverages in an open container or consuming any alcoholic beverages in any state park area is allowed in the following designated areas and circumstances:~~

(a) In the overnight accommodations set out below:

1. Designated campsites;
2. Cabins;
3. Inn Rooms;
4. Group Camps; and
5. Other accommodations designated by the Division of State Parks.

(b) In any designated group day-use facility by any authorized group which has paid a reservation fee and has obtained a prior authorization from the Park Manager to consume alcohol. A designated group day-use facility includes:

1. Designated picnic area, shelters, or meeting rooms; and
2. Open-Space venues that have specific boundaries as defined by the Park Manager.

(c) In any facility that is licensed to sell alcoholic beverages.

Authority: T.C.A. §§ 11-1-101 et seq. and 4-5-201 et seq.

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Commissioner of the Department of Environment and Conservation on 11/03/2015, and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 09/03/15

Rulemaking Hearing(s) Conducted on: (add more dates). 10/27/15

Date: November 3, 2015

Signature: _____

Name of Officer: Robert J. Martineau, Jr.

Title of Officer: Commissioner

Subscribed and sworn to before me on: _____

Notary Public Signature: _____

My commission expires on: _____

All rulemaking hearing 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.

Herbert H. Slatery III
Attorney General and Reporter

Date

Department of State Use Only

Filed with the Department of State on: _____

Effective on: _____

Tre Hargett
Secretary of State

Public Hearing Comments

One copy of a document containing responses to comments made at the public hearing must accompany the filing pursuant to T.C.A. § 4-5-222. Agencies shall include only their responses to public hearing comments, which can be summarized. No letters of inquiry from parties questioning the rule will be accepted. When no comments are received at the public hearing, the agency need only draft a memorandum stating such and include it with the Rulemaking Hearing Rule filing. Minutes of the meeting will not be accepted. Transcripts are not acceptable.

There were no comments received by the Department regarding this rulemaking.

Regulatory Flexibility Addendum

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- (1) The type or types of small business and an identification and estimate of the number of small businesses subject to the proposed rule that would bear the cost of, or directly benefit from the proposed rule.

This rulemaking will not affect any small businesses.

- (2) The projected reporting, recordkeeping, and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record.

There are not costs to small business resulting from this rulemaking.

- (3) A statement of the probable effect on impacted small businesses and consumers.

There are not impacts on small businesses and consumers resulting from this rulemaking.

- (4) A description of any less burdensome, less intrusive or less costly alternative methods of achieving the purpose and objectives of the proposed rule that may exist, and to what extent the alternative means might be less burdensome to small business.

This rulemaking will not affect any small businesses.

- (5) A comparison of the proposed rule with any federal or state counterparts.

This rulemaking will not affect any small businesses.

- (6) Analysis of the effect of the possible exemption of small businesses from all or any part of the requirements contained in the proposed rule.

This rulemaking will not affect any small businesses.

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 Department does not anticipate that these amended rules will have a financial impact on local governments.

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This rulemaking amends Rule 0400-02-02-.11, in order to align Tennessee State Park regulations with T.C.A. § 39-17-1311 regarding possession of handguns in state parks, and amends Rule 0400-02-02-.14 to clarify where alcoholic beverages may be consumed in state parks.

- (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;

These rule changes are being promulgated in accordance with T.C.A. § 11-1-101.

- (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;

State Park guests are directly impacted by these proposed amendments. There were no comments received during the public comment period.

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

The Department is not aware of any.

- (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;

The Department anticipates an increase of approximately \$20,000 annually as a result of these amendments. The Department currently receives regular inquiries from customers interested in renting event space and serving alcohol at the proposed special event. The estimated revenue is estimated based on the current number of requests received for special events. The Department is going to implement an alcohol permit fee for special events that plan to serve alcohol. In the resort parks that currently serve alcohol in the food service facilities, there will be a corkage fee implemented if the special event chooses to provide its own alcohol rather than purchasing alcohol from the park food service facility.

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

Mike Robertson
William R. Snodgrass Tennessee Tower
312 Rosa L. Parks Avenue, 2nd Floor
Nashville, Tennessee 37243
(615) 532-0434
Mike.Robertson@tn.gov

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

Jenny Howard
Deputy General Counsel
Office of General Counsel

- (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

Office of General Counsel
Tennessee Department of Environment and Conservation
William R. Snodgrass Tennessee Tower
312 Rosa L. Parks Avenue, 2nd Floor
Nashville, Tennessee 37243
(615) 532-8685
Jenny.Howard@tn.gov

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

The Department is not aware of any additional relevant information requested.