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Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing. T.C.A. § 4-5-205

Agency/Board/Commission: Department of Commerce and Insurance
Division: Tennessee Peace Officer Standards and Training
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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
1110-02	Certification
Rule Number	Rule Title
1110-02-.03	Law Enforcement Officer Certification Requirements

Chapter Number	Chapter Title
1110-04	In-service Training Requirements
Rule Number	Rule Title
1110-04-.09	Approval of Specialized Schools

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>)

Amendments

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 1110-04 In-Service Training Requirements

Rule 1110-04-.09 Approval of Specialized Schools is amended by adding new paragraphs (7), (8) and (9), which will read as follows:

- (7) All full time law enforcement officers, who are assigned to interdiction activities on the streets, roads, highways or interstates of Tennessee, must complete a POST approved training for highway drug interdiction within six (6) months of appointment. The six (6) month requirement will be counted cumulatively, not consecutively.
 - (a) The hours of this course may be credited toward the forty (40) hour in-service requirement for the year the course is completed.
 - (b) The POST Commission may grant training credits for drug interdiction training completed prior to this rule becoming effective.
- (8) All full time law enforcement officers, who seize assets for purposes of forfeiture or apply for forfeiture warrants with regards to assets seized or impounded, pursuant to the Tennessee Drug Control Act of 1989, as amended, on the portions of any highway designated and known as part of the national system of interstate and defense highways ("interstate") must complete a POST approved training for highway drug interdiction within six (6) months of appointment. The six (6) month requirement will be counted cumulatively, not consecutively.
 - (a) The hours of this course may be credited toward the forty (40) hour in-service requirement for the year the course is completed.
 - (b) The POST Commission may grant training credits for drug interdiction training completed prior to this rule becoming effective.

- (9) All newly appointed drug interdiction or drug task force directors shall, prior to or within six (6) months of appointment, complete a thirty-two (32) hour command level course of instruction approved by POST. The six (6) month requirement will be counted cumulatively, not consecutively. The hours of this course may count toward the required forty (40) hours of in-service training for the year the course is completed.

Authority: T.C.A. §§ 38-8-104, 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 rulemaking hearing rules was as follows:

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

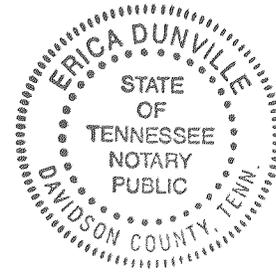
I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Peace Officer Standards and Training (POST) Commission on 03/21/2014 and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 01/28/2014

Rulemaking Hearing(s) Conducted on: (add more dates). 03/21/2014

Date: 7/9/2014
 Signature: [Handwritten Signature]
 Name of Officer: Joseph Underwood
 Title of Officer: Chief Counsel for Fire Prevention & Law Enforcement



Subscribed and sworn to before me on: 7/9/14
 Notary Public Signature: [Handwritten Signature]
 My commission expires on: 11/3/15

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.

[Handwritten Signature]
 Robert E. Cooper, Jr.
 Attorney General and Reporter
7-21-14
 Date

Department of State Use Only

RECEIVED

Filed with the Department of State on:

7-24-14

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Effective on:

10-22-14

OFFICE OF
SECRETARY OF STATE



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.

No public comments were made during or submitted for the hearing.

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.

(If applicable, insert Regulatory Flexibility Addendum here)

The rules are not anticipated to affect 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.

The rules will not impact 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 will be no additional reporting, recordkeeping or other administrative costs resulting from these rules than is currently required by the existing rules.

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

The rules will have no effect on small businesses and consumers.

(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.

Since the rules will not impact small businesses, a less burdensome, intrusive or costly alternative method has not been identified or recommended for use.

(5) A comparison of the rules with any federal or state counterparts.

The rules are based on Public Chapter 137 of the 2013 Acts which was based on 42 U.S. Code 12101, et seq. (Americans with Disabilities Act- ADA).

(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.

There are no exemptions for small businesses to the requirements contained in the rules.

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)

(Insert statement here)

The rules may 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;

Public Chapter 137 of the 2013 Acts adopted applicable provisions of the American with Disabilities Act (ADA) into state statute. The amendments to Tenn. Comp. R. & Regs. 1110-02-.03, 1110-08-.02 and 1110-09-.04 will mirror language codified in T.C.A. §§ 38-8-104(e) and 38-8-106(9). Amendments to Tenn. Comp. R. & Regs. 1110-04-.09 provide that drug interdiction agents, drug task force officers and directors attend a specialized training regarding highway drug interdiction prior to or within six (6) months (cumulative, not consecutive) of appointment.

- (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;

Public Chapter 137 of the 2013 Acts codified in 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.

- (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;

Local law enforcement agencies and drug task forces will be most directly affected by these rules. No public comments on the rules were made in the hearing.

- (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;

None. In-service training is already required by POST rules; the new training required is not over and above existing requirements.

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

Joseph Underwood, Chief Counsel for Fire Prevention & Law Enforcement, 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 & Law Enforcement, 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 (joseph.underwood@tn.gov, 615-741-3899) Department of Commerce and Insurance, 500 James Robertson Parkway, Davy Crockett Tower, Nashville, TN 37423; Brian Grisham (brian.grisham@tn.gov, SS-7039 (October 2011)

615-741-2980) POST Commission, 3025 Lebanon Road, Nashville, TN 37214

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

Not applicable

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

**CHAPTER 1110-02
CERTIFICATION**

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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 1110-04
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1110-04-.09 APPROVAL OF SPECIALIZED SCHOOLS.

- (1) If an officer attends a specialized school appropriate to his/her rank and responsibility, the eligibility of the school must be approved by the Commission. Only schools of a law enforcement related nature will be considered for in-service credit toward meeting the forty (40) hour training requirement. A curriculum of each school and proof of successful completion by the individual attendee is required. The specialized substitution form along with a copy of the Certificate, a copy of the schedule and, if no test is given, a critique from the Attending Officer to his or her supervisor must be submitted to POST two (2) weeks after the completion of the school.
- (2) If no test is administered, the attending officer should submit to his superior officer a detailed evaluation of the course. If satisfied that the training was valid and beneficial, the superior officer should submit a statement to that effect, along with a copy of the report, to the Commission. In-service credit requests will be reviewed on an outlined in 1110-04-.02.
- (3) In some instances, the specialized training session may be combined with the regularly scheduled and POST approved 40 hour in-service training sessions. If this is done, the attending officer must be tested on those hours attended in the departmental 40 hour course. This will necessitate the local General Department Instructor being responsible for identifying the appropriate questions involved in the POST testing instrument.
- (4) Any officer moving to a specialized assignment involving the use of a specialized emergency conveyance shall receive sufficient training to meet the job requirements. Specialized emergency conveyance includes, but is not limited to, motorcycle, bicycle, horse.
- (5) Any officer being promoted into a leadership position shall, within six (6) months of promotion, receive sufficient training to meet the job requirements. The training shall include courses in: leadership and team building; first line supervisor training; and mid-level management.
- (6) All newly appointed chiefs shall, prior to or within six (6) months of appointment, complete a command level course of instruction at least thirty two (32) hours in duration approved by the Commission for Police Chiefs that includes command, management and administration components, specific to law enforcement. The hours of this course may be counted toward the required forty (40) hours of in-service training the year the course is completed.
- (7) All full time law enforcement officers, who are assigned to interdiction activities on the streets, roads, highways or interstates of Tennessee, must complete a POST approved training for highway drug interdiction within six (6) months of appointment. The six (6) month requirement will be counted cumulatively, not consecutively.

(a) _____ The hours of this course may be credited toward the forty (40) hour in-service _____

requirement for the year the course is completed.

(b) The POST Commission may grant training credits for drug interdiction training completed prior to this rule becoming effective.

(8) All full time law enforcement officers, who seize assets for purposes of forfeiture or apply for forfeiture warrants with regards to assets seized or impounded, pursuant to the Tennessee Drug Control Act of 1989, as amended, on the portions of any highway designated and known as part of the national system of interstate and defense highways ("interstate") must complete a POST approved training for highway drug interdiction within six (6) months of appointment. The six (6) month requirement will be counted cumulatively, not consecutively.

(a) The hours of this course may be credited toward the forty (40) hour in-service requirement for the year the course is completed.

(b) The POST Commission may grant training credits for drug interdiction training completed prior to this rule becoming effective.

(9) All newly appointed drug interdiction or drug task force directors shall, prior to or within six (6) months of appointment, complete a thirty-two (32) hour command level course of instruction approved by POST. The six (6) month requirement will be counted cumulatively, not consecutively. The hours of this course may count toward the required forty (40) hours of in-service training for the year the course is completed.

Authority: T.C.A. §§ 38-8-104, 38-8-107 and 38-8-111. **Administrative History:** Original rule filed December 20, 1982; effective January 19, 1983. Amendment filed January 6, 1989; effective May 1, 1989. 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 December 16, 2006. Amendment filed October 2, 2006; effective February 28, 2007. Amendment filed March 18, 2010; effective June 16, 2010.

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

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

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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 1110-08-.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**

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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 tofor a mental disorderimpairment 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.